

Kenosha



County

BOARD OF SUPERVISORS

ORDINANCE NO. _____

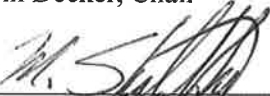
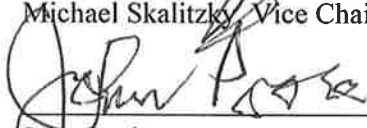
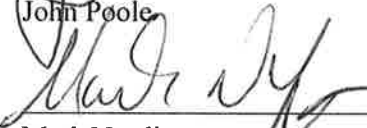
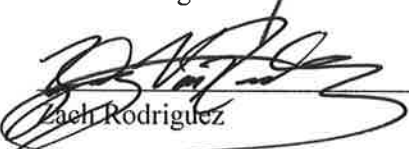
Subject: Proposed amendment to the Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance to amend the foundation survey requirements section to better accommodate current standards of practice in real estate property sales and title reporting and prevent situations involving post-construction code enforcement.			
Original ☐	Corrected ☐	2nd Correction ☐	Resubmitted ☐
Date Submitted: March 19, 2019		Date Resubmitted:	
Submitted By: Planning, Development & Extension Education Committee			
Fiscal Note Attached ☐		Legal Note Attached ☐	
Prepared By: Andy M Buehler, Director Division of Planning Operations		Signature:	

WHEREAS, Kenosha County proposes to amend Chapter 12 Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance to change the language regarding Foundation Survey Requirements; and,

WHEREAS, the Kenosha County Planning, Development and Extension Education Committee held a public hearing on the request on March 13, 2019, and recommended approval of the request.

NOW, THEREFORE BE IT RESOLVED that pursuant to the authority granted by Sections 59.69 and 59.594(2)(a) of the Wisconsin State Statutes, the Kenosha County Board of Supervisors does hereby ordain that Chapter 12 of the Municipal Code of Kenosha County entitled "Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance" be and hereby is changed by the following additions, deletions and amendments and is amended to read as set forth in the attached Exhibit A, pertaining to text changes to Sections 12.05-4.

Approved by:

PLANNING, DEVELOPMENT & EXTENSION EDUCATION COMMITTEE				
	<u>Aye</u>	<u>No</u>	<u>Abstain</u>	<u>Excused</u>
 Erin Decker, Chair	☒	☐	☐	☐
 Michael Skalitzky, Vice Chair	☒	☐	☐	☐
 John Poole	☒	☐	☐	☐
 Mark Nordigan	☒	☐	☐	☐
 Zach Rodriguez	☒	☐	☐	☐

Strikethrough = Text Removed

Green Font = New Text

EXHIBIT "A"

Proposed amendments to the Kenosha County General Zoning and Shoreland/Floodplain Zoning, in order to amend ordinance language relative to the requirement of foundation surveys for new construction.

LIST OF AMENDED SECTIONS

12.05-4 FOUNDATION SURVEY REQUIREMENTS

- (a) Except as provided for in subsection (b), any person erecting, moving, enlarging or reconstructing a structure, which, under this ordinance, requires a zoning permit shall upon completion of the construction of footings, concrete slab or other foundations, submit to the Department of Planning and Development a survey prepared by a ~~registered~~ landprofessional surveyor showing the locations, boundaries, dimensions, elevations and size of the following: The boundaries of the lot, all existing structures (including foundations) and their relationship to the lot lines. The County Director of Planning and Development shall compare the location of all new or extended foundations with the location of all proposed construction activity reported on the permit application. No further construction may commence unless the Director of Planning and Development shall find that the foundation location is consistent with the permit as issued and shall so certify. Failure to comply with the requirements of this section shall be grounds for the issuance of a citation pursuant to section 12.32-3 of this Ordinance, and attendant penalties.
- (b) A foundation survey shall not be required for the construction of any non-residential structure located at least 200 feet from any property line or 200 feet from any navigable body of water in an agricultural district.
- ~~(c) In addition to the exception provided for in subsection (b) above, the foundation survey requirements may be waived at the option of the permit applicant, for any construction, except for construction of a principal structure and for the construction of a new foundation under an existing principal structure, provided that the permit applicant shall file and record with the Department of Planning and Development and with the Kenosha County Register of Deeds a "Waiver of Liability of Foundation Survey" which shall be binding on the permit applicant and his estate and which shall forewarn future owners of said parcel of the lack of a certified foundation survey verifying that structures located on the parcel are in conformity to the ordinance and further, that if any error is made on the placement of any construction or structure, or if a zoning violation is later discovered, the applicant and his estate shall move the construction or structure so as to conform with the zoning regulations effective on the date the permit was issued and shall further pay all consequent damages. Structures illegally located on a parcel are in violation of the Kenosha County Zoning Ordinance. Applicable statute of limitations for prosecution of such violations shall not begin to run until such time as a certified survey has been filed with the Department of Planning and Development and the Register of Deeds indicating the location of the structures on the parcel.~~

12.14-5 SIGNS PERMITTED IN ALL BUSINESS, MANUFACTURING, INSTITUTIONAL, AND PARK-RECREATIONAL DISTRICTS

Except as provided in section 12.14-2 and 12.14-3, the following signs are permitted only in the business, manufacturing, institutional, and park recreation districts with a permit and only on the premises and subject to the following regulations:

(a) **Awning and Canopy Signs**

Number: One (1).

Area: Maximum of fifteen (15) percent per side of each face.

Height: At least eight (8) feet above the public sidewalk or thoroughfare.

Lighting: Full cut-off; top down directional or internal.

Landscaping: None required.

(b) **Menu Boards**

Drawings showing the specific design, appearance and location of the sign(s) shall be submitted to the Department of Planning and Development for approval.

Number: Subject to approval of Planning & Development

Area: Thirty-six (36) square feet per sign

Height: Eight (8) feet

Street Setback: Fifteen (15) feet

Lighting: Full cut-off; top down directional or internal

Landscaping: None required

(c) **Monument Signs**

Number: Limited to one (1) per street frontage or drive entrance, provided that no monument sign is located closer than a minimum of 300 feet to another monument or freestanding sign on the same property.

Area: Eighty (80) square feet per side of sign, one-hundred sixty (160) square feet maximum for all sides.

Height: Ten (10) feet.

Street Setback: Five (5) feet.

Lighting: Full cut-off; top down directional, ground mounted directional or internal.

Landscaping: As contained elsewhere in this ordinance.

(d) **Freestanding Signs**

Number: Limited to one (1) per street frontage or drive entrance, provided that no freestanding sign is located closer than a minimum of 300 feet to another freestanding or monument sign on the same property.

Area: One-hundred fifty (150) square feet per side of sign, three-hundred (300) square feet maximum for all sides, except for freestanding signs within an area between Interstate Highway 94 and a distance fifty (50) feet beyond the outermost right-of-way edge of the Frontage Road may be up to three-hundred (300) square feet per side of sign and six-hundred (600) square feet maximum for all sides.

Height: Twenty (20) feet, except for freestanding signs within an area between Interstate Highway 94 and a distance fifty (50) feet beyond the outermost right-of-way edge of the Frontage Road may be up to thirty (30) feet.

Street Setback: Fifteen (15) feet.

Lighting: Full cut-off; top down directional, ground mounted directional or internal.

Landscaping: As contained elsewhere in this ordinance.

Signs with exposed poles or posts shall be individually enclosed or covered.

(e) **Wall Signs**

1 **Single-Tenant Buildings**

Number: One (1) per public entrance or wall/façade which fronts upon a public right-of-way or private drive.

Area: Limited to 1.5 times the length of the wall on which the sign is to be placed, up to a maximum of six-hundred (600) square feet.

Height: ~~Twenty (20) feet in height above the mean centerline street grade~~ Shall comply with the height requirements of the zoning district in which the sign is located.

Extension: Shall not extend more than twelve (12) inches outside of a building's wall surface.

Lighting: Full cut-off; top-down directional, or internal.

Landscaping: None required.

2 **Multi-Tenant Buildings and Shopping Centers**

Number: One (1) per tenant, plus each tenant may place one (1) wall sign per public entrance or wall/façade which fronts upon a public right-of-way or private drive and contained within the tenant's internal wall space or end cap wall area.

Area: Limited to 1.5 times the length of the wall on which the sign is to be placed, up to a maximum of six-hundred (600) square feet.

Height: ~~Twenty (20) feet in height above the mean centerline street grade~~ Shall comply with the height requirements on the zoning district in which the sign is located.

Extension: Shall not extend more than twelve (12) inches outside of a building's wall surface.

Lighting: Full cut-off; top-down directional or internal.

Landscaping: None required.

12.21-9 R-9 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

(a) **Primary Purpose and Characteristics**

The R-9 Multiple-Family Residential District is intended to provide for multiple-family residential development, at densities not to exceed 8.7 dwelling units per developable net acre, served by public sanitary sewage facilities. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this ordinance (See Section 12.08-2). (8/6/02)

(b) **Principal Uses**

- 1 Community living arrangements having a capacity of 15 or fewer persons and which shall be in conformance with all state statutory requirements (2/18/92)
- 2 Essential services
- 3 Foster family homes having less than 4 foster children and not exceeding 8 total occupants and are in conformance with all state statutory requirements
- ~~34~~ Multiple family dwellings not to exceed eight (8) units per structure with densities not to exceed 8.7 units per net acre served by public sanitary sewage facilities.

(c) **Accessory Uses**

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses (see also section 12.27-6) (8/6/02)
- 2 Small wind energy system
- 3 Solar energy system
- 4 Swimming pools and spas (see also section 12.17) (8/6/02)
- 5 Fences (see also section 12.15) (8/6/02)
- 6 Decks and Patios (see also section 12.18.3)

(d) **Conditional Uses (see also section 12.29-8)**

- 1 Community living arrangements for 16 or more persons and which are in conformance with all state statutory requirements (2/18/92)
- 2 Model apartments and model condominiums and related temporary real estate sales office located within the model unit
- ~~3 Multiple family dwellings not to exceed eight (8) units per structure with densities not to exceed 8.7 units per net acre served by public sanitary sewage facilities.~~
- ~~43~~ Utility substations

(e) **Lot Area and Width**

- 1 Lots shall have a minimum area of the larger of 10,000 square feet or 5,000 square feet per unit
- 2 All lots shall have a minimum width of 100 feet unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to 50 feet of frontage provided there is at least 100 feet of width at the required building setback line.

(f) **Building, Height, Area and Design Standards (9/5/06)**

- 1 No building or parts of a building shall exceed 35 feet in height
- 2 The minimum total floor area of a multiple-family residential structure shall be 1500 square feet, and the minimum first floor area of a multiple-family structure shall be 1,000 square feet. In addition thereto:

- a efficiency or one-bedroom apartments shall have a minimum floor area per dwelling unit of 500 square feet
 - b two-bedroom apartments shall have a minimum floor area per dwelling unit of 750 square feet, and
 - c three or more bedroom apartments shall have a minimum floor area per dwelling unit of 1,000 square feet.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than 24-feet in width for at least fifty (50) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival. (9/5/06)

(g) Yards

- 1 Street yard - not less than 65 feet from the right-of-way of all Federal, State, and County Trunk highways and not less than 40 feet from the right-of-way of all other roads. (8/6/02)
- 2 Shore yard - not less than 75 feet from the ordinary high water mark of any navigable water. (11/5/86)
- 3 Side yard - not less than 15 feet in width on each side of all structures
- 4 Rear yard - not less than 25 feet.

(h) Authorized Sanitary Sewer System

- 1 Public Sanitary Sewer

12.21-10 R-10 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

- (a) **Primary Purpose and Characteristics**
The R-10 Multiple-Family Residential District is intended to provide for multiple-family residential development, at densities not to exceed 10.8 dwelling units per developable net acre served by public sanitary sewage facilities. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this ordinance (See Section 12.08-2). (8/6/02)
- (b) **Principal Uses**
- 1 Community living arrangements having a capacity of 15 or fewer persons and which shall be in conformance with all state statutory requirements (2/18/92)
 - 2 Essential services
 - 3 Foster family homes having less than 4 foster children and not exceeding 8 total occupants and are in conformance with all state statutory requirements
 - 4 Multiple-family dwellings not to exceed eight (8) units per structure (2/18/92)
- (c) **Accessory Uses**
- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses (see also section 12.27-6) (8/6/02)
 - 2 Small wind energy system
 - 3 Solar energy system
 - 4 Swimming pools and spas (see also section 12.17) (8/6/02)
 - 5 Fences (see also section 12.15) (8/6/02)
 - 6 Decks and Patios (see also section 12.18.3)
- (d) **Conditional Uses (see also section 12.29-8)**
- 1 Community living arrangements for 16 or more persons and which are in conformance with all state statutory requirements (2/18/92)
 - ~~2 Multiple-family dwellings not to exceed eight (8) units per structure (2/18/92)~~
 - ~~32~~ Model apartments and model condominiums and related temporary real estate sales office located within the model unit
 - ~~43~~ Utility substations
- (e) **Lot Area and Width**
- 1 Lots shall have a minimum area of 12,000 square feet or 4,000 square feet per unit, whichever is larger, and
 - 2 All lots shall have a minimum width of 120 feet unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to 60 feet of frontage provided there is at least 120 feet of width at the required building setback line.
- (f) **Building, Height, Area and Design Standards (9/5/06)**
- 1 No building or parts of a building shall exceed 35 feet in height
 - 2 The minimum total floor area of a multiple-family residential structure shall be 2,000 square feet, and in addition thereto:
 - a the minimum floor area per dwelling unit for an efficiency or one bedroom apartment shall be 400 square feet;
 - b the minimum floor area per dwelling unit of a two-bedroom apartment shall be 600 square feet;

- c and the minimum floor area per dwelling unit of a three or more bedroom apartment shall be 800 square feet.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than 24-feet in width for at least fifty (50) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival. (9/5/06)
- (g) Yards
 - 1 Street yard - not less than 65 feet from the right-of-way of all Federal, State, and County Trunk highways and not less than 40 feet from the right-of-way of all other roads. (8/6/02)
 - 2 Shore yard - not less than 75 feet from the ordinary high water mark of any navigable water (11/5/86)
 - 3 Side yard - not less than 15 feet in width on each side of all structures.
 - 4 Rear yard - not less than 25 feet.
- (h) Authorized Sanitary Sewer System
 - 1 Public Sanitary Sewer

12.21-11 R-11 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

- (a) **Primary Purpose and Characteristics**
The R-11 Multiple-Family Residential District is intended to provide for multiple-family residential development, at densities not to exceed 12.4 dwelling units per developable net acre, served by public sanitary sewage facilities. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this ordinance (See Section 12.08-2). (8/6/02)
- (b) **Principal Uses**
- 1 Community living arrangements having a capacity of 15 or fewer persons and which shall be in conformance with all state statutory requirements (2/18/92)
 - 2 Essential services
 - 3 Foster family homes having less than 4 foster children and not exceeding 8 total occupants and are in conformance with all state statutory requirements
 - 4 Multiple-family dwellings (2/18/92)
- (c) **Accessory Uses**
- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses (see also section 12.27-6) (8/6/02)
 - 2 Small wind energy system
 - 3 Solar energy system
 - 4 Swimming pools and spas (see also section 12.17) (8/6/02)
 - 5 Fences (see also section 12.15) (8/6/02)
 - 6 Decks and Patios (see also section 12.18.3)
- (d) **Conditional Uses (see also section 12.29-8)**
- 1 Community living arrangements for 16 or more persons and which are in conformance with all state statutory requirements (2/18/92)
 - ~~2~~ Multiple family dwellings (2/18/92)
 - ~~3~~ Housing for the elderly
 - 4 Model apartments and model condominiums and related temporary real estate sales office located within the model unit
 - 5 Utility substations
- (e) **Lot Area and Width**
- 1 Lots shall have a minimum area of 20,000 square feet or 3,000 square feet per unit, whichever is larger, and
 - 2 Lots shall have a minimum width of 120 feet unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to 60 feet of frontage provided there is at least 120 feet of width at the required building setback line.
- (f) **Building, Height, Area and Design Standards (9/5/06)**
- 1 No building or parts of a building shall exceed 35 feet in height
 - 2 The minimum total floor area of a multiple-family residential structure shall be 3,000 square feet, and in addition thereto:
 - a the minimum floor area per dwelling unit for an efficiency or one bedroom apartment shall be 300 square feet;

- b the minimum floor area per dwelling unit of a two-bedroom apartment shall be 500 square feet;
 - c and the minimum floor area per dwelling unit for a three or more bedroom apartment shall be 600 square feet.
 - 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than 24-feet in width for at least fifty (50) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival. (9/5/06)
- (g) Yards
 - 1 Street yard - not less than 65 feet from the right-of-way of all Federal, State, and County Trunk highways and not less than 40 feet from the right-of-way of all other roads. (8/6/02)
 - 2 Shore yard - not less than 75 feet from the ordinary high water mark of any navigable water. (11/5/86)
 - 3 Side yard - not less than 15 feet in width on each side of all structures.
 - 4 Rear yard - not less than 25 feet.
- (h) Authorized Sanitary Sewer System
 - 1 Public sanitary sewer

12.29-8 STANDARDS FOR CONDITIONAL USES

12.29-8(b)90:

~~90 — Multiple family dwellings in the R-9, R-10, and R-11 Districts. (2/18/92)~~

- ~~a — In the R-9 District, dwellings containing between four and eight units per structure shall not be located closer than three hundred feet to any parcel of land zoned for a single-family residence.~~
- ~~b — Additionally, all applicants for developments of multiple family dwellings in the R-9, R-10, or R-11 Districts shall submit an application substantially complying with Section 12.26-4(h) of this Ordinance, which shall be reviewed pursuant to conditional use procedures and according to the additional standards contained in Section 12.26-4(k)1.a. to d.~~

APPENDIX "A"—DEFINITIONS

~~CAMP LAKE/CENTER LAKE AREA (3/1/94)~~

~~That portion of Kenosha County located within the following U.S. Public Land Survey Quarter Sections of Township 1 North, Range 20 East, Village of Salem Lakes:~~

Quarter Sections	Section
NE, NW, SW	15
SE	16
SE	20
NE, NW, SE, SW	21
NW	22
NE, NW, SE, SW	28
NE, NW, SE, SW	29
NE, NW, SE, SW	32
NE, NW, SE, SW	33

FLOODLANDS (3/1/94)

For the purpose of this Ordinance, the floodlands are all lands contained in the "regional flood" or 100-year recurrence interval flood. ~~For the purpose of this Ordinance, the floodlands are divided into the Floodplain Overlay District, the Camp Lake/Center Lake Floodway Overlay District, and the Camp Lake/Center Lake Floodplain Fringe Overlay District.~~

~~FLOODPLAIN FRINGE (3/1/94)~~

~~Those floodlands, outside the floodway, subject to inundation by the 100-year recurrence interval flood. For the purpose of this Ordinance, the floodplain fringe is included in the Camp Lake/Center Lake Floodplain Fringe Overlay District.~~

EXECUTIVE SUMMARY

Section 12.05-4 of the Kenosha County General Zoning & Shoreland/Floodplain Zoning Ordinance (hereinafter "Ordinance") sets forth requirements regarding the submission of a professional survey document to compare the location of all new or extended building foundations with the location of all proposed construction activity reported on the issued permit application.

The Ordinance currently requires a property owner to hire a professional surveyor to complete a foundation survey immediately after the construction of a permitted principal structure, for example, a single-family residence.

In cases where a property owner is constructing an addition to a principal structure or a detached accessory building, such as a residential building addition, commercial building addition, detached accessory building or detached accessory building addition (not an accessory structure such as a deck, pool or fence), the code allows property owners the option to either agree to hire a professional surveyor to update their property survey immediately after construction of the building or sign and record against their title a waiver of liability of foundation survey document (hereinafter "waiver"). Recording the waiver effectively indefinitely postpones the survey update requirement until a later date – usually until the property is sold or there is an application to re-finance and the prospective buyer or bank after acknowledgement of the waiver via a title search requests the waiver be released from the title. In order to release the waiver from the title, a professional surveyor must then be hired to complete a current plat of survey of the property showing the permitted building. Said plat of survey is then to be submitted to Planning & Development where it is compared against the original permit document. If the permitted built structure(s) are found to have been constructed according to the Ordinance requirements, then a release of waiver document is prepared and issued by Planning & Development staff so as to satisfy those parties concerned. The waiver document is ultimately recorded with the Register of Deeds office upon closing in order to cancel the original waiver. Questions 8 through 12 of Planning & Development's FAQ webpage elaborate on this requirement.

In short, we have found the waiver option is not an effective means of ensuring permitted buildings are built to the size and location limits defined in the Ordinance. Waivers have become an enforcement tool used too late and under unrealistic circumstances. Waivers can easily sit a property title for more than a decade, leaving descendants of the person who constructed the building or worse – second generation property owners who ignored or assumed the waiver's obligations upon closing to be expected to correct the problem. It seems many times the task of clearing such a waiver from the title is done after there is an accepted offer and therefore only days before an anticipated closing – leaving little lead time to hire a surveyor who is 5-6 weeks out to complete an updated survey for the property, and not a good time for a structural violation to rear its head. Planners within the office of Planning & Development all have stories about upset property owners forced to deal with a requirement by a buyer or lending institution to satisfy the waiver prior to closing.

With this amendment realtors, lenders and title companies will stop seeing waiver documents cloud their title reports upon closing.

Requiring the survey update within short order while the construction project is recent and the property is still owned by the party that pulled the permit will simply hold the property owner accountable and gives Planning & Development the leverage it needs in terms of code enforcement and rectifying a found violation, which typically involves demolishing the structure or reducing its size. Amending the code will reduce the potential to burden a subsequent property owner who knowingly or not inherited a waiver when purchasing their property from having to rectifying a found violation.

Barring some exceptions, this amendment will require property owners to hire a professional surveyor to update their plat of survey within short order after construction and submit said survey document to Planning & Development in order to close the permit. It is our understanding that cost for a property survey can vary depending on size of the property, the amount and type of data requested to be drawn and accessibility and proximity to monumentation. While we understand hiring a surveyor costs more than the 30.00-dollar option to sign a waiver, we want to point out that there are added costs when the waiver option is taken. In addition to the 30.00-dollar fee necessary to record the original waiver, years later in order to release the waiver in addition to hiring a professional surveyor (a cost which has naturally risen over the course of time) there is a 20.00-dollar administrative fee to cover the cost to review the prepared survey document and prepare the release of waiver. After the release document is prepared there is another 30.00-dollar fee to record the release of waiver document. So in short, a property owner is paying 80.00-dollars in recording and administrative fees to postpone an action that will ultimately be completed once mandated by a prospective buyer or lender. We feel that the administrative time and costs to prepare and then release a waiver, combined with the unrealistic expectation that if a building is found to be constructed in violation that it is to be corrected years after construction, usually by a party that was not involved in its construction warrants an amendment to the Ordinance.