

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

Sec. 95.114. Organization.

The administration of this chapter is vested in the following four offices:

- (1) Extraterritorial zoning (ETZ) committee (see section 95.115)
- (2) Zoning administrator (see section 95.116)
- (3) Board of zoning appeals (see section 95.208)
- (4) Board

Sec. 95.115. Extraterritorial zoning (ETZ) committee.

(a) *Composition and appointment.* The ETZ Committee referred to in this section and elsewhere in this chapter shall be composed and appointed as provided for in Wis. Stats. § 62.23(7a) and as further provided for in any ordinance implementing that statute. The Extraterritorial Zoning (ETZ) Committee shall consist of three (3) citizen members of the Village Plan Commission, or three (3) members of the Plan Commission designated by the Village President if there are no citizen members of the Commission, and three (3) Town members. The three (3) Town members shall be appointed by the Town Board for three (3) year terms and shall be residents of the Town and persons of recognized experience and qualifications. Town Board members are eligible to serve.

The Weston Village Board may approve and amend the districts and regulations of the Zoning Ordinance as they apply to the ETZ area after first submitting the proposed amendment to the ETZ Committee for recommendation and report.

(b) *Compliance with Open Meeting Law.* All meetings and hearings of the ETZ Committee shall be conducted in accordance with Wis. Stats. §§ 19.81--19.98, the Open Meeting Law.

(c) *Duties.*

- (1) The primary duties of the ETZ Committee with respect to this chapter shall be to:
 - a. Carry out Wis. Stats. § 62.23(2) regarding the making and maintaining of a master plan for the physical development of the village; and
 - b. Be cognizant of such plans as may be adopted by adjacent municipalities, the county or the regional planning agency referred to in Wis. Stats. § 66.945;
 - c. Make its recommendations and conduct its administration of this chapter, pursuant to Wis. Stats. § 62.23(3), in accordance with the village plan and with such of the other plans as the Committee shall endorse.

(2) Additional duties of the Committee shall be to hold informational or public hearings as assigned to the Committee by this chapter.

(d) *Powers.* The ETZ Committee has the power to:

(1) Enter upon any lands and make inspections in the performance of Committee duties, as provided for in Wis. Stats. § 62.23(4).

(2) Recommend to the board amendments to this chapter, either as petitioned by owners of land or their agents, with or without modifications or conditions as the Committee shall deem appropriate, or as petitioned by the Committee itself.

(3) Recommend to the board denial or approval of conditional use permits as set forth in Article VI of this chapter.

(4) Review, negotiate and recommend to the board for action, applications for zoning permits where the district regulations require Committee action as set forth in Article V of this chapter.

(5) Recommend to the zoning administrator the suspension or revocation of any zoning or conditional use permit where the Committee finds noncompliance to the permit as issued.

Sec. 95.116. Zoning administrator.

(a) *Community Development Director designated.* The Community Development Director, or some other designee as assigned by the organizational structure of the village, is designated the zoning administrator. For such duties, there may be provided the assistance of such additional persons as the board may direct.

(b) *Duties.* It shall be the duty of the zoning administrator to administer, supervise and enforce the provisions of this chapter and to:

(1) Record all permits issued, inspections made, work approved and other official actions.

(2) Inspect all structures, lands and waters as often as is necessary to assure compliance with this chapter.

(3) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters.

(4) Give notice of all violations of this chapter to the owner, resident, agent or occupant of the premises.

(5) Report uncorrected violations to the village attorney and assist him in the prosecution of violations of this chapter.

(6) Prepare agendas for the ETZ Committee and zoning board of appeals, including processing of applications for action by those bodies.

(c) *Powers.* The zoning administrator shall have all the powers necessary to enforce the provisions of this chapter without limitation by reason of enumeration, including the following:

- (1) Issue zoning permits and occupancy certificates upon application for the erection or use of a structure, land, air or water where such erection or use complies with all of the provisions of this chapter.
- (2) Permit temporary events for periods not to exceed ten days for specific purposes such as temporary carnivals, sports activities over public ways, church bazaars, charity fundraisers and revival meetings which are not detrimental to the public health, safety, comfort, convenience or general welfare, provided the use or operation of any incidental temporary structures or tents are in conformance with all other ordinances and codes of the ETZ area.
- (3) Enter premises, public or private, at any reasonable time for any proper purpose to make those inspections as deemed necessary by the zoning administrator to ensure compliance with this chapter. If, however, the zoning administrator is refused entry after presentation of identification, the zoning administrator may procure a special inspection warrant in accordance with Wis. Stats. § 66.0119 except in case of emergency.
- (4) To revoke any zoning permit or occupancy certificate upon reasonable cause or question as to proper compliance and to issue cease and desist orders requiring the cessation of any activity which is in violation of this chapter, such revocation to be effective until reinstated by the zoning administrator or the board of appeals.
- (5) Commence any legal proceedings in the name of the town and village and with the authorization of the ETZ Committee necessary to enforce the provisions of this chapter.
- (6) Recommend to the ETZ Committee any additional use regulations the zoning administrator shall deem necessary to make the operation of this chapter more effective.

Sec. 95.117. Zoning permit and occupancy certificate.

(a) *Required.* No new building and no existing building which is to be remodeled or relocated shall be issued a building permit until a zoning permit is issued certifying that such construction or change would comply with the provisions of this chapter, based upon the information and plans supplied to the zoning administrator as required. Occupancy or use of land, water or buildings and structures shall be prohibited until an occupancy certificate has been issued certifying that all appropriate provisions of this chapter have been met.

(b) *Procedure.* Applications for zoning permits and occupancy certificates shall be made to the village building inspector on forms furnished by the zoning administrator prior to or at the same time as an application for a building permit or prior to the commencement of any use not involving a building permit, and shall include the following where pertinent and necessary for proper review:

- (1) A statement by the applicant as to the intended use of the premises and buildings on the premises.
- (2) An accurate map of the property drawn to a reasonable scale and properly dimensioned showing:

- a. The boundaries of the property involved and address, including subdivision lot and block number or metes and bounds description.
 - b. The location of the centerline of any abutting streets, existing highway access restrictions, proposed street access points, and the locations of off-street parking and loading areas and driveways.
 - c. The location on the lot of any existing buildings, proposed additions or proposed new buildings, including the measured distances between such buildings and from the lot lines and from the centerline of any abutting street to the nearest portion of such building.
 - d. The proposed floor elevation of any proposed buildings in relation to the existing and/or established grade of any abutting streets and the general direction of surface drainage on the lot, including the defined location of any defined drainage way; such elevations shall be referenced to mean sea level datum.
 - e. The high water line of any stream or lake which abuts the property or otherwise directly affects it by flooding.
 - f. The boundaries of soil types shown as existing on the property on USDA Soil Conservation Service maps where these are required by the zoning administration.
- (3) Where the proposed use involves human occupancy and connection is not to be made to municipal water service, satisfactory evidence that a safe and adequate supply of pure water is to be provided and the location of any well for that purpose shown on the map.

(c) *Permit issuance.* Upon determination of compliance by the building inspector and zoning administrator of the applicant's request with all applicable provisions of this chapter, including, where necessary, approval by the ETZ Committee of building site and operational plans pursuant to article V and upon payment of the proper fee (section 95.119), a zoning permit shall be issued. The applicant shall post such permit in a conspicuous place at the site.

(d) *Final inspection.* Within 72 hours after the notification of the completion of the erection, alteration or relocation of the building or of intent to commence a use, the building inspector shall make an inspection of the premises and any building on the premises; and if the building and its intended use and the proposed use of the premises comply with the requirements of this chapter, an occupancy certificate shall be issued.

(e) *Expiration.* If within 12 months of the date of application for a zoning permit no occupancy certificate has been issued, any related zoning permit shall lapse; and the zoning administrator shall make immediate investigation to ascertain that no use or occupancy has in fact commenced without proper authority. Upon showing of valid cause, the zoning administrator may grant an extension of such permit for a period not to exceed six months.

(f) *Temporary occupancy certificate.* Pending the issuance of a regular permit, a temporary permit for a nonresidential use may be issued for a period not exceeding six months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants. A temporary permit shall be voided if the building fails to

conform to the provisions of this chapter to such a degree as to render it unsafe for the occupancy proposed.

Sec. 95.118. Zoning compliance statements.

Owners of properties or their agents, for their convenience and without actually applying for a zoning permit, upon paying a separate fee, may request the zoning administrator to issue a zoning compliance statement on whether the existing or prospective use of or construction that property complies with or is likely to comply with the terms of this chapter. The zoning administrator may refuse to issue such permits except on an "as time is available basis" based upon work flow in the zoning office, and may condition such statements as not covering aspects that are in the opinion of the administrator speculative or indeterminate from the information at hand.

Sec. 95.119. Fees.

(a) *Publishing.* Fees for zoning permits, occupancy certificates, conditional uses, zoning changes and amendments, variances or other requests before the board of appeals shall be required to defray the cost of administration, map preparation, inspections, public notices and record keeping. The board shall, upon recommendation of the ETZ Committee, establish a fee schedule by resolution, and the fee schedule shall be published and made available through the zoning administrator, which shall update the schedule of fees of subsection (b) of this section.

(b) *Zoning fees.* Zoning fees required by this chapter are provided in the village fee schedule:

Sec. 95.120. Double fees.

A double fee may be charged by the building inspector or zoning administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter.

Sec. 95.121. Enforcement and violations.

(a) *Financial sureties.* The ETZ Committee may require that a performance bond or letter of credit be obtained for the benefit of the town and filed with the village clerk so as to ensure compliance with the terms of this chapter or a permit. In setting the amount of the bond or letter of credit, consideration should be given to the purpose of the bond or letter of credit, the use to which any forfeited money is to be applied, and the time when it may be applied and any increased costs due to time or inflation that may be incurred by the town or village in the event of noncompliance with this chapter or the terms of a permit or that may be incurred for purposes of rehabilitation. The amount of the bond may be subject to further review. Failure to obtain or maintain such bond or letter of credit shall invalidate any permit.

(b) *Violations, injunctions, abatement and removal.* It shall be unlawful to construct, develop or use any structure, or develop or use any land, water or air in violation of any of the provisions of this chapter or order of the zoning administrator or board of appeals. In case of any violation, the village board, or the village attorney or the zoning administrator upon approval of the village board, or any owner of real estate affected who would be specifically damaged by such violation, may institute

appropriate legal action or proceedings to enjoin a violation of this chapter, or seek abatement or removal. In addition, those actions commenced on behalf of the village may seek a forfeiture or penalty as outlined in this section.

(c) *Proceedings.*

- (1) *Civil proceedings.* Pursuant to the provisions of Wis. Stats. § 66.0114, an action for violation of a municipal ordinance is deemed a civil action. Accordingly, Wis. Stats. chs. 801--847 shall apply where applicable to violations of this chapter.
- (2) *Village attorney.* The village attorney may, at the village attorney's discretion, commence legal actions or proceedings and may proceed pursuant to the proceedings outlined in Wis. Stats. § 66.119, 66.12 or 778.10, or pursuant to the issuance of a summons and complaint.
- (3) *Citations.* Citations may be issued by the zoning administrator, village building inspector or authorized deputies.
- (4) *Special inspection warrants.* The provisions of Wis. Stats. §§ 66.122 and 66.123 shall govern the issuance of all special inspection warrants.
- (5) *Statute of limitations.* Pursuant to Wis. Stats. § 893.93(2)(b), any action to recover a forfeiture or penalty imposed by ordinance or regulation, when no other limitation is prescribed by law, shall be commenced within two years of the violation. In those situations in which there occurs a continuing violation in existence for more than two years prior to the issuance of the complaint and wherein each day the violation exists continues to constitute a separate offense, no penalty may be imposed for each day of violation occurring more than two years prior to the commencement of the action; a penalty may be imposed, however, for each day of violation occurring within the two- year period prior to the issuance of the complaint.

(d) *Penalties.*

- (1) *General penalties.* Any person or corporation who fails to comply with the provisions of this chapter or any order of the zoning administrator issued in accordance with this chapter shall, upon conviction, forfeit not less than \$50.00 nor more than \$500.00 and the cost of prosecution for each violation including court costs and reasonable attorney's fees; and in default of payment of such forfeiture and costs shall be imprisoned until payment, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.
- (2) *Schedule of cash deposits for violations.* The cash deposit for the violation of any section or subsection of this chapter shall be \$100.00. In addition, upon conviction, any person who has been found to have acted in violation of any section shall be liable for the costs of prosecution, including court costs and reasonable attorney's fees; and in default of payment of such forfeiture and costs, shall be imprisoned until payment, but not exceeding 30 days. For a second offense of a similar nature within a 12-month period, the cash deposit shall be \$250.00; and for a third offense of a similar nature within a 12-month period, the cash deposit shall be \$500.00.

(e) *Liens*. In addition to all other remedies available at law, a judgment on convictions of violations of the terms of this chapter wherein a forfeiture or penalty is imposed shall be filed with the county register of deeds office and shall constitute a lien on the property and running with the property wherein the violation occurred and shall be removed only upon payment of the penalty or forfeiture. Notice of the imposition of such a lien shall be given to the defendant; and prior to the filing of the lien, the defendant shall be given ten days to appeal to the court of the county in imposing such a lien on the property wherein the violation occurred. Any judgment so filed with the register of deeds shall note on the judgment the imposition of such a lien and a legal description of the property so affected. Upon satisfaction or partial satisfaction of such judgment, notice of such satisfaction or partial satisfaction shall be filed with the register of deeds.