CHAPTER 2

ADMINISTRATION

ZN 2.01 Village of Somers Department of Planning and Development
ZN 2.02 Permits

ZN 2.01 VILLAGE OF SOMERS DEPARTMENT OF PLANNING AND DEVELOPMENT.

(1) **DEPARTMENT OF PLANNING AND DEVELOPMENT.**

The Department of Planning and Development is hereby created by the Village Board of Trustees for the purpose of administering all planning functions required by Statute and enforcing all planning and zoning related ordinances enacted by the Village Board of Trustees and any other ordinance designated by the Village Board of Trustees to be enforced by the Department of Planning and Development.

(2) **PLANNING AND DEVELOPMENT DIRECTOR-SELECTION AND TERM OF OFFICE.**

(a) The position of Development Director is hereby created as a permanent position by the Village Board. The Village Administrator shall serve as the Planning and Zoning Director unless and until the Village Board designates another individual to serve in this position.

(b) Qualifications for the position of administrator shall be determined by the Village Board. Such qualifications shall include requirements with respect to expertise in the areas of planning, zoning, geography or urban affairs and past related work experience.

(3) **DUTIES OF THE PLANNING AND DEVELOPMENT DIRECTOR.**

The Village Administrator or his/her designee shall act as the Village Planning and Development Director. The Village Planning and Development Director shall have the following duties:

(a) To administer and enforce the zoning, shoreland, floodplain, and subdivision control, ordinances enacted by the Village Board of Trustees so as to manage and promote the public health, safety, convenience and general welfare of the citizens of the Village pursuant to the appropriate statutes and ordinances.

(b) To give all legal notices required by state statutes and the aforementioned ordinances.

(c) To investigate alleged zoning violations and give notice thereof to the owner of the subject property and assist in necessary prosecutions and make as often as necessary, all necessary inspections of structures, lands and waters to certify compliance with the aforementioned ordinances and report uncorrected violations to the Village Attorney in a manner specified by him and assist the Village Attorney in any action involving the Department of Planning and Development.

(d) To extend zoning information, assistance and advice to the public.

(e) To maintain, by parcel number where feasible, the appropriate records and indexes for all permits, inspections, complaints, public hearings, legal notices and zoning maps and other official actions.

(f) To attend policy formulation meetings and make recommendations to the Village Board, and set public hearings as required by the Wisconsin Statutes or the Municipal Code of the Village.

(g) To make all necessary studies required for the improvement of land use in the Village and studies relevant to the imposition of conditions for obtaining a conditional use permit.

(h) To supervise the operation of the office .

(i) To coordinate with contracted personnel including, but not limited to, the Office of Planning and Development personnel, the Village Attorney and Village Engineer.

(j) To prepare, present and implement the annual budget for the Department of Planning and Development.

(k) To prepare all necessary resolutions and reports for the Village Board of Trustees that relate to Planning and Development.

(l) To collect and account for all fees and other monies received by the office.

(m) To prepare, maintain, file and record by parcel number where feasible, all records, maps, photographs, studies, reports, surveys, tapes and indexes required for the efficient and proper administration and enforcement of the aforementioned ordinances.

(n) Pursuant to Wisconsin Statutes, maintain a record after the approval of this Ordinance or amendments thereto or changes in district boundaries, of all lands, premises and buildings in the Village used for purposes not conforming to the regulations applicable to the district in which they are situated.

(o) To contest, subject to the time limitations set forth in the Wisconsin Statutes and any conditions required by Chapter 68 of the Wisconsin Statutes, any decision of the Board of Review which is in the opinion of the administrator incorrect.

(4) **POWERS.**

The Village planning and development director shall have the power to:

(a) Receive, review and act upon, (either granting or denying) all zoning, use and other permit applications authorized by the aforementioned ordinances and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(b) Review all subdivisions for compliance with the standards in Section ZN 2.01(3)(h) above. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this Ordinance and all other requirements in Section ZN 4.08(1). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

(c) Determine similarities in intended uses with those uses set forth in a particular district as provided for in Chapter 4 of this Ordinance.

(d) Prohibit the use or erection of any structure or the use of any land or water until he has inspected and approved such use or erection.

(e) Suspend or revoke any permit issued by the Department of Planning and Development upon non-compliance with the terms of the permit and/or this Ordinance.

(f) Commence, subject to the Village Attorney's approval, any legal action in the name of the Village to ensure enforcement of the terms of the aforementioned ordinances.

(g) Issue citations pursuant to §66.0119, Wis. Stats., to be served by the Kenosha County Sheriff or private process server for violations of any of the aforementioned ordinances.

(h) Gain entry to premises, buildings and structures for the purpose of investigating applications for permits and for the purpose of determining compliance with any permit issued pursuant to any of the aforementioned ordinances or provisions of this Ordinance during reasonable daylight hours or any other time authorized by the court. If entry is refused after presentation of proper identification, a special inspection warrant may be procured in accordance with §66.0119, Wis. Stats.

(i) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.

(j) 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 corporation counsel in a manner specified by him.

(k) Assist the Village Attorney in the prosecution of ordinance violations.

(l) Be Permitted Access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Ordinance. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with §66.122, Wis. Stats.

(m) Prohibit the use or erection of any structure, land, or water until he has inspected and approved such use or erection.

(n) Request Assistance and cooperation from the Kenosha County Sheriff's Department and Village Attorney as deemed necessary.

(o) Submit Copies of the following items to the DNR Regional office:

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 case by case analyses and other required information including an annual summary of floodplain zoning actions taken.

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

ZN 2.02 PERMITS.

(1) **APPLICATIONS REQUIRED.**

(a) No buildings, structures, or any parts thereof, or any development except as hereinafter provided in this Ordinance, shall be built, enlarged, altered, repaired, demolished, placed or moved within the areas subject to the provisions of this Ordinance until a permit has been applied for in writing and issued by the Planning and Development Director or his Deputy or his designee. For the purposes of this section, to alter or repair a building or structure shall be construed to mean to change the dimensions, square footage, cubic footage, or structural supports of a building or structure or to change the structure in such a way that the future use of the premises is inconsistent with the district wherein the parcel is located. All permits issued by the Department of Planning and Development shall be issued only upon the condition that the Director of Planning and Development or his designee may inspect the premises for compliance during reasonable daylight hours.

(b) No new business or industry established in an existing structure shall be permitted to commence its operation until such time as a certificate of compliance has been issued by the Department of Planning and Development certifying that the proposed use or operation is in compliance with the terms of this Ordinance.

(c) Applications for permits required by this Ordinance shall be made to the Department of Planning and Development on forms furnished by the office or authorized by this Ordinance and shall include all information and data required by such forms.

(d) Applications for zoning permits required by this Ordinance shall fully comply with §145.195, Wis. Stats., and with the Kenosha County Sanitary Code and the Kenosha County Private Sewage System Ordinance, both of which may be amended from time to time.

(e) Reserved for future use.

(f) No application shall be accepted by the Department of Planning and Development if the parcel for which a permit is being applied for is not in compliance with any provision of this Ordinance.

(g) Any application for a permit under this ordinance or any use subject to the regulations and standards set forth herein shall be accompanied by a sworn statement by the owner of the subject property that said property and use will be operated in

accordance with the provisions of this Ordinance.

(h) Every application shall include the following information or as deemed appropriate by the Department of Planning and Development:

1 Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and authorized agent and their respective phone numbers.

2 Description of the subject site by lot, block, and reported subdivision or by metes and bounds; addresses of the subject sites; type of structure; existing and proposed operation or use of the structure or sites; number of employees, anticipated patrons or maximum seating capacity and the zoning district within which the subject site lies, tax parcel number, date of purchase and projected cost of construction.

3 A plat of survey and/or site plan layout consisting of a survey prepared by a land surveyor registered by the State of Wisconsin or other map drawn to scale and approved by the Department of Planning and Development Director showing the locations, boundaries, dimensions, uses and sizes of the following as deemed appropriate by the Department of Planning and Development: subject site, existing and proposed structures; existing and proposed easements, streets, and other public ways and utilities; off-street parking, loading areas, and driveways; existing highway access restrictions; ordinary high water mark, channel, floodway, floodplain, and shoreland boundaries; and existing and proposed street, sides, rear, and shore yard setbacks. In addition, the site plan or plat of survey shall show, when required by the Department of Planning and Development, the type, slope, and boundaries of soils shown on the operational soil survey maps prepared by the United States Department of Agriculture Natural Resources Conservation Service for the Southeastern Wisconsin Regional Planning Commission. Also, such survey/site plan shall show, when required by the Department of Planning and Development, any natural features such as waterways, woods, terrain, etc., which would tend to restrict the development of the parcel. Such survey or plan shall also show the location and size of any septic field, holding tank, well, utilities and roadways. Dimensions for street, sides, rear and shore yard setbacks shall be clearly shown. All permit applications for new principal structures in any district shall be accompanied by a plat of survey prepared by a land surveyor registered by the State of Wisconsin.

4 The permit fee specified in these Ordinances.

5 Additional information that may be required by the Village Board, Director or Sanitary Inspector.

6 The elevation of the lowest floor of proposed buildings and any fill using the North American Vertical Datum (NAVD)

7 Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Section ZN 4.08 are met; and

(2) **APPLICATIONS NOT REQUIRED**.

Except for development and substantial improvements in the floodland districts, permits shall not be required for:

(a) Farm buildings and structures which are not for human habitation and which are not permanently fixed to the ground and which are readily removable in their entirety, provided that street, sides, rear and shore yard setback requirements for that District are met. This exemption, however, shall not apply to roadside stands more than three hundred (300) square feet in area used for the sale of farm products or other goods and services produced solely on the parcel.

(b) Farm improvements such as drainage irrigation systems, grass waterways and terraces, farm fences except as outlined in this Ordinance.

(c) Public utilities such as gas and oil pipe lines, electric and telephone transmission and distribution lines, poles and other accessories which shall be permitted in all districts except for those areas defined as shoreland areas provided, however, that when a utility proposes a major inter-city transmission line or pipeline, it give notice to the Village Board of such intention and of the time and place of hearing before the Public Service Commission and provided further that at the request of the Village Board, the utility meet with it to discuss the routing of said transmission line or pipe line and before actual construction, file a mapped description of the route of such transmission line with the Village Board.

(d) Repairs and other alterations which do not change the cubic footage of a building or structure and do not constitute a change in use and meet all street, sides, rear and shore yard setback requirements.

(e) Structures one hundred fifty (150) square feet or less in area and not more than fifteen (15) feet in height. Such structures must, however, conform with the yard requirements of the district in which they are located, or if the structure is located in the rear yard, with the requirements set forth in Section ZN 5.01(2) of this Ordinance.

(f) Steps and stairs to a dwelling in conformance with Section ZN 5.01(2) of this Ordinance.

(3) **TIME LIMITS**.

All permits, except conditional use permits and stipulated shoreland permits, shall be granted

or denied in writing, within thirty (30) days after application, by the Department of Planning and Development. All stipulated shoreland permits shall be granted or denied within sixty (60) days after application, unless the time is extended by mutual agreement. The applicant shall post any permit granted in a conspicuous place at the site. All zoning permits shall expire no more than one hundred eighty (180) days after issuance. The permit may be extended for a maximum of one hundred eighty (180) days for good and sufficient cause. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

(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 land 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 Village 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 ZN 6.03(3) of this Ordinance, and attendant penalties.

(b) A foundation survey shall not be required for the construction of any structure located at least two hundred (200) feet from any property line and two hundred (200) feet from any navigable body of water.

(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 Village 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 Kenosha County Register of Deeds indicating the location of the structures on the parcel.

(5) **CERTIFICATE OF COMPLIANCE.**

A certificate of compliance shall be required in the following instances:

(a) No vacant land shall be occupied, used, developed or substantially improved; and no building hereafter erected, altered or moved shall be occupied; and no floodland shall be filled, excavated, or developed; and no non-conforming use shall be maintained, renewed or changed until a certificate of compliance shall have been issued by the Village Department of Planning and Development. Such permit shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of the ordinance. Such permit shall be issued only when the building or premises and the proposed use thereof conform with all requirements of this Ordinance.

(b) Upon the establishment of a new business or industry in an existing structure as set forth in Section ZN 2.02(1)(b) of this Ordinance.

Under the above circumstances, no person, firm or corporation shall occupy, use or cause to be used, any land or building as set forth above until the Planning and Development Director has issued a written certificate of compliance.

(6) **OTHER PERMITS**.

It is the responsibility of a permit applicant to secure all other necessary permits required by any federal, state, or local agency. This includes, but is not limited to, a water use permit pursuant to Chapters 30 and 31 of the Wisconsin Statutes or a wetland fill permit required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344, as amended.

(7) **DISCLAIMER**.

All permits issued by the Department of Planning and Development shall note the following disclaimer therein:

"Each applicant for a Zoning Permit is charged with knowledge of the Village of Somers General Zoning and Shoreland/Floodplain Zoning Ordinance. Copies of the text of this Ordinance or portions thereof and copies of the official zoning maps are available for sale, copying or inspection upon request. Any statement made, assurance given or permit erroneously issued contrary to this Ordinance is null and void."

(8) **FEES**.

(a) All persons, firms, or corporations performing work which by this Ordinance requires

the issuance of a permit shall pay a fee for such permit to the Village of Somers Department of Planning and Development to help defray the cost of administration, investigation, advertising, and processing of permits and variances.

(b) The Village shall be exempt from payment of any of the above fees in subsection (a).

(9) **TRIPLE FEES**.

A triple fee shall be charged by the administrator if construction, as defined in this Ordinance, is started before a permit is applied for and issued. Such triple fees shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

(10) **DISPOSITION OF FEES**.

(a) All fees collected by the Village Department of Planning and Development for permits issued through that office shall be retained by the Village of Somers. Village employees shall not be eligible to retain any of the fees collected.