

City of Waukesha, Wisconsin

Ordinance No. 2023-12

**An Ordinance Amending Section 16.09
of the Waukesha Municipal Code, Regarding
Certificates of Occupancy**

The Common Council of the City of Waukesha do ordain as follows:

Section 1. Section 16.09 of the Waukesha Municipal Code is hereby amended to read in its entirety as follows:

16.09 Certificate of Occupancy

1. DEFINITIONS.

- a. **Certificate of Occupancy.** "Certificate of Occupancy" means a document issued by the Office of Community Development authorizing a building, structure, premises, or part thereof to be occupied. A Certificate of Occupancy is also referred to in this chapter as an "Occupancy Permit."
- b. **Change in Use.** "Change in Use" includes any change in occupancy classification set forth in the International Building Code, any change from one group to another group within an occupancy classification, and any change in purpose or level of activity of the existing occupancy that makes requirements in this chapter apply that did not apply prior to the change.
- c. **Nonresidential Premises:** "Nonresidential Premises" means a building or part thereof used other than as a residence containing one or more dwelling units. Permitted Uses in B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, MM-1, and A-1 districts set forth in chapter 22 of this Municipal Code are examples of Nonresidential Premises.
- d. **Operator:** "Operator" means the owner of a Nonresidential Premises or a person occupying and using a Nonresidential Premises who is neither the owner nor a Tenant.
- e. **Tenant:** "Tenant" means a person who occupies a Nonresidential Premises pursuant to a lease with the owner of the premises, or who holds possession

without a lease and pays rent to the owner on a periodic basis.

2. FINAL INSPECTIONS. A Certificate of Occupancy shall be issued after a final inspection when the conditions set forth in sections 16.071(3)(a)—(c) of this chapter are met.

3. CHANGE IN USE.

- a. No person shall change the use of any building, structure, premises, or part thereof without first obtaining approval of such change and a new Certificate of Occupancy from the Office of Community Development. Approval shall be granted when the Chief Building Inspector or a designee finds that the building, structure, premises, or part thereof meets the requirements of all applicable ordinances, codes, statutes, and regulations.
- b. Whenever a person changes the use of any building, structure, premises, or part thereof without first obtaining a new Certificate of Occupancy, an Office of Community Development Building Inspector may order the use discontinued and the building, structure, premises, or part thereof vacated. The Inspector shall serve the vacate order on the person using or causing such use to be continued by First Class Postal Mail or personal service. Such person shall comply with the vacate order within the time set forth in the order or make the building, structure, premises, or part thereof comply with this Municipal Code.
- c. Any building, structure, premises, or part thereof vacated under sub. (b) of this subsection or damaged by any cause whatsoever so as to jeopardize public safety or health shall not be occupied or used until an application has been filed and a new Certificate of Occupancy issued.

4. REQUIREMENTS FOR NONRESIDENTIAL PREMISES.

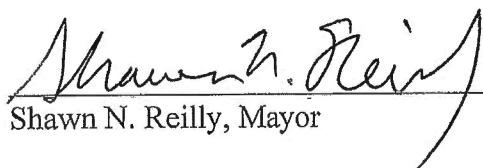
- a. On or before **3-24-2025**, every owner of a Nonresidential Premises shall provide the Office of Community Development with the following information: the owner's name and address; the name of the current operator or tenant using the Nonresidential Premises; and the Nonresidential Premises' existing use. The Office of Community Development shall make a form application available at the City website so Nonresidential Premises owners may provide the information online.
- b. If after **9-22-2023** the Operator or Tenant of a Nonresidential Premises changes, the new Operator or Tenant shall apply for and obtain a new Certificate of Occupancy from the Office of Community Development.
- c. A change solely to the name of an existing Operator or Tenant does not require a new Certificate of Occupancy under sub. (b) of this subsection if information is provided to the Building Inspector showing that the change is limited to the name

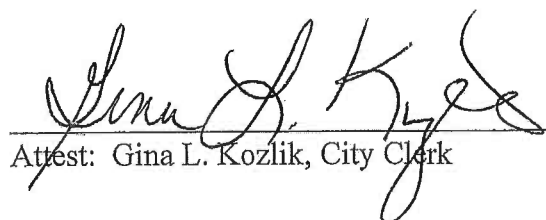
and does not otherwise affect the occupancy, use, or user of the premises. The Building Inspector is authorized to approve any change in name and shall affix the new name to the existing certificate.

- d. A Certificate of Occupancy for a Nonresidential Premises shall indicate its use and identify its Operator or Tenant, the portion of the space to be occupied, and occupant load total.
- e. The Certificate of Occupancy issued to a Nonresidential Premises shall be posted near the main entrance of the building or in a location designated by the Building Inspector or Fire Inspector.
- f. Temporary occupancy of a Nonresidential Premises to accommodate interior work such as stocking store shelves prior to issuing a Certificate of Occupancy may be authorized in accordance with subs. (i) through (iii) of this subsection.
 - i. Temporary occupancy is authorized only if the Chief Building Inspector and Fire Chief or their respective designees jointly approve the request after determining that such occupancy would not jeopardize life, health, or property.
 - ii. The Chief Building Inspector and Fire Chief or their designees may require certain precautionary measures taken as a prerequisite to granting temporary occupancy, including but not limited to: restricting areas where temporary occupancy is allowed; limiting the number of persons who may occupy the building; limiting the number of hours of the day when the building may be occupied; designating an end date for the temporary occupancy; and requiring additional safety measures if deemed necessary to protect the health, welfare, and safety of the public. All required measures shall be conveyed to the Operator or Tenant in writing.
 - iii. Temporary occupancy may be revoked if any precautionary measures required under sub. (ii) of this subsection are not followed, or at any time continued occupancy threatens the health, welfare, or safety of the public.

Section 3. This ordinance shall take effect the day after publication.

Passed the 19 day of September, 2023.


Shawn N. Reilly, Mayor


Attest: Gina L. Kozlik, City Clerk