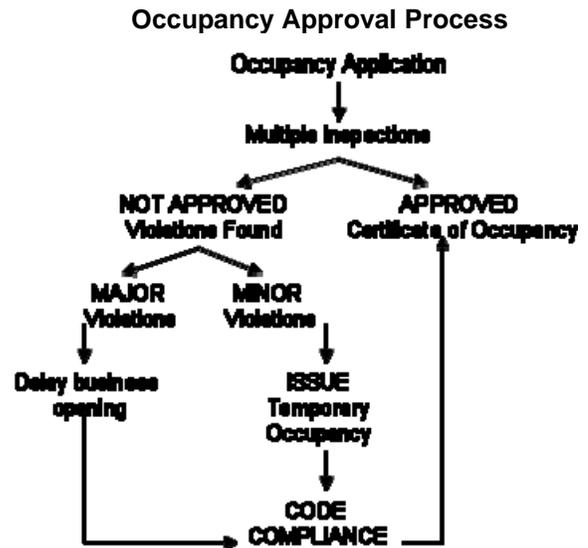


## EXECUTIVE SUMMARY Occupancy Renewal Program

For a business to open in Shorewood, the business owner must receive a Certificate of Occupancy that requires approval by five (5) separate inspectors: a Village Building, Electrical and Plumbing Inspectors, the North Shore Fire Department, and the Health Department. Staff is proposing modifications of the current program and implementation of an Occupancy Renewal Program, requiring businesses to renew their occupancy permit every five years.

The purpose for a renewal occupancy program is to:

- a) Maintain and ensure the safety of Shorewood's aging commercial buildings
- b) Improve village staff efficiency and time management
- c) Verify businesses have Certificate of Occupancy
- d) Create a business-friendly environment



There are many long-time businesses in Shorewood operating in buildings that are 70-plus years old that inspectors have not been in for decades. A renewal program ensures proper on-going maintenance and safety of those public spaces, and in some cases, assist with improvements when attempts by leased businesses fail.

Under the new program, businesses would be required to renew the Occupancy Permit every five years. With over 260 businesses and an average of 20 new businesses each year, an estimated 28 businesses per year would be required to renew their occupancy certification. With many small businesses closing within five years of opening, the number of annual renewal inspections most likely would be less than 28.

The Planning & Development Department building inspector oversees the issuance of Certificates of Occupancy, gathering confirmation from the other four inspectors. Much time and effort is spent on performing inspections, coordinating materials and outcome among all involved inspectors, and continued follow up efforts. The number of inspectors involved in an occupancy permit approval process exceeds other communities.

There are also an ever-increasing number of businesses that obtain temporary occupancy approvals but do not obtain a Certificate of Occupancy. The Village grants temporary occupancies with the business owner agreeing to correct remaining violations by a certain date. However, often businesses do not make corrections and do not respond to follow up requests made by inspectors. As of January 2011, fifty-two percent (52%) of the businesses that opened between 2008 and 2010 have not received a Certificate of Occupancy, only temporary occupancy.

There are three basic changes necessary to implement an efficient occupancy program and renewal program that does not increase the inspectors' workload and meets the program objectives:

1. Reduce the number of inspectors involved
2. Balance correction notices with property owner and business tenant
3. Improve compliance through various tools

*1. Reduce the number of inspectors involved*

To improve the program, instead of three to five separate inspectors, only the building inspector would perform an occupancy renewal inspection. It is also recommended that the Fire Department not be involved in all renewals or new occupancies for a simple office-style business that has traditionally operated in the space and has no specialized equipment.

*2. Balance correction notices with property owner and business tenant*

The new program also balances who is responsible for correcting violations. Before, most notices of violations found in common areas and basements that existed prior to the new tenant, became the responsibility of the new business owner. The property owner will now be notified of violations for items in common areas, basements, exterior items, some fire-related items and more, as detailed in the full report and in Agenda A. This has already been implemented into our current occupancy approval process in spring 2011.

*3. Improve compliance*

Increasing and tiering permit fees, requiring a permit deposit and restricting the issuance of temporary occupancy is three ways to decrease the amount of time and effort devoted to approving occupancies, which also improves compliance. Utilization of re-inspection fees and citations would also help increase compliance.

The current occupancy fee is \$100 with a recommended increase to \$125. Other communities have additional fees as a means to gain compliance faster. The Village of Brown Deer requires a deposit of \$500 refunded when occupancy is approved. West Allis charges a \$100 fee for a temporary occupancy.

Recommendations

- Require business occupancy renewals every five years
- Reduce the number of inspectors involved in occupancy approvals
- Increase existing occupancy fee to \$125; tiered renewal fees \$25 less than 400 sf, \$50 between 400 and 1000 sf, \$75 greater than 1000 sf.
- Require occupancy permit deposit \$500
- Triple occupancy fees for new businesses that open prior to submitting an occupancy application (\$125x3)
- When charge re-inspection fees, deduct from \$500 deposit
- Lose entire \$500 deposit if fail to correct violations in agreed amount of time under a temporary occupancy approval
- Restrict issuance of temporary occupancy approvals
- Limit temporary occupancies to 10 days
- Utilize existing enforcement tools with re-inspection fees and citations to increase compliance of open violations
- Require businesses post Certificate of Occupancy

*Implementation*

Staff is recommending implementation of occupancy renewal beginning January 2012. Businesses would be introduced to the program early fall 2011 and renewal notices would be generated in late fall each year to approximately 20 to 30 businesses. Staff has identified 19 businesses with temporary occupancies that opened between 1999 to 2005 that would be included in the first year batch.

	April-May	June-Jul	Aug-Sept	Oct-Dec
<b>Task 1: Program Approval</b>				
Village Board discussion/approval		•		
Business Improvement District input		•		
Code amendments		•		
<b>Task 2: Program Awareness</b>				
Create program brochure			•	
Meet with BID		•	•	
Business owners program introduction letter			•	
Business owner information meetings (2)			•	
PR			•	
<b>Task 3: Letters to year-one renewals</b>				•

## **Proposed Commercial Occupancy Renewal Program FIVE-YEAR RENEWALS**

New businesses in Shorewood require a one-time approved Certificate of Occupancy. A Commercial Occupancy Renewal Program would require all businesses to renew there occupancy permit every five years, entailing a physical inspection of the premises by a village building inspector.

The current one-time occupancy permit process requires inspections by five (5) inspectors: a Village Building, Electrical and Plumbing Inspector, the North Shore Fire Department, and the Health Department. All inspections must be approved before a business can open.

### **I. PURPOSE OF PROGRAM**

Occupancy permits are necessary to ensure zoning requirements are met and as a life safety check, monitoring physical improvements made and permits required. Shorewood is afforded numerous long-time businesses. With the current program requiring a one-time approval, inspectors have not been in some commercial spaces for decades. In instances where a new business opens, Shorewood inspectors often identify interior improvements completed without permit and completed not in compliance to current building and related codes resulting in costly improvements.

Having inspections performed every five years puts another set of eyes on the maintenance of the aging commercial buildings, requiring compliance or offering advise on minor items before they turn into major repairs.

The purpose for a reoccurring occupancy program is to:

- a) Maintain buildings and ensure safety
- b) Improve village staff efficiency and time management
- c) Create a business-friendly environment

#### **Objectives**

1. Decrease the amount of staff time spent on open and non-compliant occupancy permits
2. Improve occupancy approval process for business owners
3. Ensure building and zoning codes met

## II. CURRENT PROGRAM

Shorewood has approximately 271 commercial tenant spaces. Staff broadly categorizes business use as either retail or office. In the below table, 41% of all the businesses are some form of retail use and 59% categorized as office use. Of all the business spaces, 68% are storefront locations.

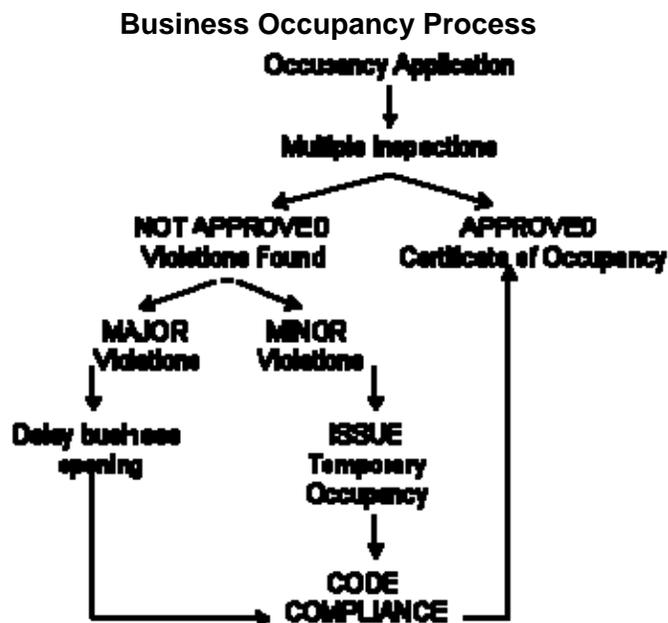
	No. of Businesses	Percent to Total
<b>Current Business Spaces</b>	<b>271</b>	
Retail use	110	41%
Office use	161	59%
Storefront	185	68%
Non-storefront	86	32%
Tot. Vacancies	32	12%
No. Storefront Vacancies	16	6%

as of 4/1/11

### A. Existing Occupancy Approval Process

When a business first contacts the village, the Planning & Zoning Administrator meets with new business owners to review the occupancy approval process, the existing Business Improvement District, and various Village tools and marketing efforts.

For a business to open in Shorewood, the business owner must receive a commercial Certificate of Occupancy that requires approval by five (5) separate inspectors. The business owner is responsible for scheduling each inspection.



The Planning & Development Department building inspector oversees the issuance of Certificates of Occupancy, gathering confirmation from the other four inspectors.

All five (5) inspectors are involved with all types of business occupancies, whether it is for a small office or large restaurant or whether there is no interior remodel or large interior remodel.

**Occupancy Inspectors**

Inspector	Location
1 Building	Village Hall, Shorewood
2 Plumbing	
3 Electrical	
4 Fire	North Shore Fire Dept., Glendale
5 Health	Brown Deer or Shorewood Health Dept.

The number of inspectors involved in an occupancy permit approval process exceeds other communities. Contact with other local communities identifies a maximum of three inspectors involved and only a building inspector and Fire Department when no food or beverage is included.

The number of inspections involved in an occupancy approval varies. Variables include: type of business, extent of interior improvements, knowledge of general contractor or person making improvements, lease arrangement with property owner, history of building maintenance, and more.

In an attempt to improve the occupancy approval process, the village no longer requests the Health Sanitarian to inspect businesses that do not have a public bathroom beginning in 2011. A building inspector now confirms public bathroom requirements.

**Businesses with annual licenses**

Approximately 30 businesses maintain local licenses for tobacco, beer, wine, liquor, and dry cleaning in the village. Licenses are renewed annually, administered through the Clerk’s Office and approved by the Village Board.

The Building Inspector informs the Clerk whether a licensed business has an occupancy permit that is operating with consent, whether under a temporary status, or approved certificate. The building inspector does not perform an inspection unless known violations exists. However, in 2011 the Building Inspector requested inspections for some licensed businesses because of not being in the buildings for some time.

## **Fees**

The village occupancy application fee is \$100 with separate applications for the Fire Department, Health Department and North Shore Environmental Health Consortium as shown in the Appendix. Both the Fire and Health fees vary by type of business and equipment involved.

In the Planning & Development Department, the contracted Electrical and Plumbing Inspectors receive \$10 each for occupancy inspections and the remaining \$80 to the Village.

### III. PROGRAM ISSUES

There are two predominant hindrances with Shorewood’s current occupancy approval process. First, is an ever-increasing number of businesses that obtain temporary occupancy approvals but do not obtain a Certificate of Occupancy.

Second, is the amount of time spent on performing inspections, coordinating materials and outcome among all involved inspectors, and continued follow up efforts as mentioned above.

#### A. Businesses Operating without a Certificate of Occupancy

Temporary occupancy is granted when there is an outstanding building violation, but the business owner is eager to open. The village usually grants a temporary occupancy and the business owner agrees to correct remaining violations within an agreed amount of time. The business owner is most often charged with correcting violations, whether in the immediate space, in a lobby or in the basement. However, often businesses do not make corrections and do not respond to follow up requests made by inspectors. Most of the businesses without Certificates of Occupancy are operating under a temporary occupancy that has long expired.

In addition, a small number of businesses open each year without submitting an occupancy application. Because of the age of the buildings and infrequency of inspections in the commercial spaces, the likelihood of finding violations is common. Most often violations are minor; however, the business remains open and a temporary occupancy is likely granted ending with the same scenario of inspectors seeking compliance.

Between 2004 to 2010 the number of annual occupancy permits ranged between 16 and 26. Occupancy data for years 2008 to 2010<sup>1</sup> shows a significant percentage, 52%, of occupancies that have not been approved by all involved inspectors and have not received a Certificate of Occupancy.

**Commercial Occupancy Permits**

Year	Tot. Occupancy Permits	Open Permits	% Open	Temporary Occupancy
2010	26	20	77%	15
2009	20	7	35%	7
2008	16	5	31%	5
<b>Total</b>	62	32	52%	27

*As of Jan. 2011*

To support a vibrant business district, the village does not close businesses unless a direct life safety violation exists. Businesses continue to operate and the village continues to request compliance.

<sup>1</sup> In 2008 the permit database was implemented, giving the ability to report on permit variables.

Allocating staff attention over an ever-increasing number of permits has made it difficult to enforce in a timely manner.

**B. Time Involved**

The Building Inspector issues the Certificate of Occupancy and tracks the status of the other four inspectors involved. Each inspector is emailed an inspection sheet containing the business information. The business owner is responsible for scheduling all inspections.

The building inspector waits for each inspectors report, verifying whether the business owner has scheduled inspections and the outcome of inspections.

Differing means of communication, delayed response time and busy schedules negate an efficient approval process.

**III. PROPOSED RENEWAL PROGRAM**

Staff is proposing a five-year Occupancy Renewal Program. Implementing a systematic occupancy inspection program meets the village’s objectives of improving village staff efficiency, creating a business-friendly environment and keeping the village’s old buildings safe by ensuring buildings are maintained and code requirements are met.

Under the new program, businesses would be required to renew their Occupancy Permit every five years. With over 260 businesses and an average of 20 new businesses each year, it’s estimated that 28 businesses per year would be notified that there occupancy is up for renewal, as estimated below.

<b>Estimate of Annual Occupancy Renewals</b>	
No. of Existing Businesse	260
less Ave. Annual new businesses	<u>20</u>
	240
less 5 yr ave new business	<u>100</u>
No. of businesses to inspect over 5 yrs	140
<b>Annual No. of Occupancy Renewals</b>	<b>28</b>

Staff will determine which businesses will be notified annually based on when the business opened and factoring inspections previously performed for annual licenses. However, not all renewal inspections will be chronologically determined.

## A. Program Changes

There are basic changes necessary to implement an efficient occupancy program and renewal program that does not increase the inspectors workload and does meet the program objectives:

### Occupancy Program Changes

1. Reduce the number of inspectors involved
2. Balance correction notices with property owner and business tenant
3. Improve compliance and ensure building safety
4. Enforcement

<b>Reduce the number of inspectors involved</b>	Building Inspector performs original occupancy and renewal occupancy inspections, eliminating plumbing and electrical inspectors.
	Fire Department inspects original occupancy permits except small business offices that do not make improvements.
	Fire Department is not involved in renewals.
	Health Sanitarian inspects food and beverage establishments only.
	Health Department approves massage establishments only.
<b>Balance violations between landlord and tenant</b>	Require property owner correct exterior, common area, basement and fire code items.
	Grant Certificate of Occupancy if no violations within immediate business space.
<b>Increase compliance</b>	Require occupancy permit deposit.
	Restrict granting of temporary occupancy.
<b>Improve occupancy approval</b>	Require all businesses to display Certificate of Occupancy.

#### 1) Reduce the number of inspectors involved

To improve the program, it is vital the number of inspectors involved be reduced and some eliminated pending on the type of business. Appendix A identifies items checked during an occupancy inspection by the Village, excluding the Health and Fire Department.

Inquiring with other area building inspectors, only the building inspector performs occupancy inspections looking for obvious building and life safety violations. No separate plumbing or electrical review is done unless obvious life safety items present themselves. Instead of a three separate inspectors from the village, only the building inspector would review and perform an occupancy inspection.

It is also recommended that the Fire Department not be involved in any renewals or new occupancies for a simple office-style business that has traditionally operated in the space and has no specialized equipment.

The program will not require additional staff on account of streamlining the current occupancy approval process.

#### 2) Balance correction notices with property owner and business tenant

The new program also balances out who is responsible for correcting violations. Before, most notices of violations found in the common areas and basements that existed prior to the new tenant, were given to the business owner. As shown in appendix A, the property owner will be notified of violations for items in common areas, basements, exterior items, some fire-related items and more.

**3) Improve compliance and ensure building safety**

Swiftly eliminating violation correction orders benefits all by reducing staff time, eliminating unsafe conditions and allowing the business to open sooner. Letters to business and property owners requesting follow up on violation corrections often go without response. A combination of the below administrative changes help achieve faster compliance and occupancy.

- a) Increase permit fees
- b) Require an occupancy permit deposit
- c) Restrict issuance of temporary occupancies

**a) Permit Fee Changes**

Shorewood’s occupancy application fee is \$100. The side table compares Shorewood 10 other communities occupancy fees. The average fee is \$121 which does not factor in variations for three communities.

Greenfield’s fees increase to \$200 for new building occupancies; Milwaukee’s increases to \$400 for spaces over 10,000 and; West Allis’ fees tier up to \$600 for spaces over 10,000 sqft. A fee increase to \$125 is recommended. Renewal fees are recommended at \$75.

There would be an additional \$2,000 annual revenue generated from the renewal applications assuming the fee is \$75.

	Community	Occupancy Application Fee	
1	Shorewood	\$100	to fee  sqft,
2	Brookfield	\$140	
3	Brown Deer	\$190	
4	Franklin	\$200	
5	Glendale	\$84	
6	Greenfield*	\$100	
7	Milwaukee*	\$200	
8	Oak Creek	\$70	
9	Waukesha	\$50	
10	Wauwatosa	\$100	
11	West Allis*	\$100	
	<i>average</i>	<b>\$121</b>	

In addition, the Village fee schedule allows re-inspection fees. Inspectors have not applied re-inspection fees to occupancy permits. Re-inspection fees should be applied as a compliance tool as well as develop a tiered fee as recently developed for property enforcement- \$50 fee 1st re-inspection; \$75 2nd re-inspection; \$150 3rd re-inspection, and; \$250 4th re-inspection. Inspectors often perform numerous inspections that go beyond what is considered industry standard.

**b) Occupancy Deposit Fee**

Communities have other fees surrounding occupancy permits. The Village of Brown Deer requires a deposit of \$500 refunded when an occupancy is approved. West Allis charges a \$100 fee for a temporary occupancy. The Brown Deer building inspector fully supports the deposit requirement as an excellent tool in gaining compliance with violations surrounding business occupancies. Staff recommends a \$300 deposit.

Fees	Current	Proposed
Occupancy	\$100	\$125
Deposit	na	\$300
Occupancy Renewal	na	\$75

**c) Establish temporary occupancy policy**

Most businesses are granted temporary occupancies when violations remain so that there is no delay in opening. However, to ensure violations are corrected, the village will not grant temporary occupancies if the violation is a life safety concern and if there is pre-existing violations in the space.

Temporary occupancies should also be limited by time. One community limits temporary occupancies to seven (7) days and closes the business if the violations remain outstanding. Staff recommends 10 days and support to close a business if deemed necessary.

**4). Enforcement**

Enforcement efforts surrounding occupancy and building violations are either by citation or temporarily closing a business. Holding the occupancy deposit fee is also a new enforcement tool.

Current staff is unaware of a time when a business was closed for open violations and support that option in extreme cases where public safety is in question. Also, current staff is not aware of utilizing citations for compliance as inspectors currently do for property enforcement.

Supporting the use of citations and business closings are existing tools that are under utilized. Approval from the Village Manager would be sought before closing any business. Requiring re-inspection fees for additional inspections is also a tool to gain compliance.

If a business is unwilling to submit a Occupancy Renewal application, an inspection will be performed and an invoice generated. If unpaid by the end of the year, it would be placed on the owners tax roll.

**IV. RECOMMENDATION SUMMARY**

The following is a summary of staff recommendations to improve the occupancy approval process and ensure safety of commercial buildings.

- Require business occupancy renewals every five years
- Reduce the number of inspectors involved in occupancy approvals
- Increase existing occupancy fee to \$125; tiered renewal fees: \$25 less than 400 sf, \$50 between 400 and 1000 sf, \$75 greater than 1000 sf.

- Require occupancy permit deposit \$500
- Restrict issuance of temporary occupancy approvals
- Utilize existing enforcement tools with re-inspection fees and citations to increase compliance of open violations
- Require businesses post Certificate of Occupancy
- Limit temporary occupancies to 10 days
- Triple occupancy fees for new businesses that open prior to submitting an occupancy application (\$125x3)
- When charge re-inspection fees, deduct from \$500 deposit
- Lose entire \$500 deposit if fail to correct violations in agreed amount of time under a temporary occupancy approval

## V. IMPLEMENTATION

Planning & Development Department staff will discuss the proposed program with the Village Board, requesting approval of the renewal program. If approved, staff will create program materials and introduce to the businesses through the Business Improvement District, letters and informational meetings.

		June-Jul	Aug-Sept	Oct-Dec
<b>Task 1: Program Approval</b>				
Village Board discussion/approval	•			
Business Improvement District input	•			
Code amendments	•			
<b>Task 2: Program Awareness</b>				
Create program brochure		•		
Meet with BID	•	•		
Business owners program introduction letter		•		
Business owner information meetings (2)		•		
PR		•		
<b>Task 3: Letters to year-one renewals</b>				•

Once approved and businesses are made aware of the program, letters and renewal application will be sent to identified businesses, requesting them to schedule an appointment within 30 days. Businesses that have not responded will receive another letter with a 10 day request for contract, communicating an automatic inspection if no response.



Inspection Checklist	Business Owner	Property Owner
<b>Exterior conditions</b>		
Property address	√	
exits free of obstruction	√	
paint, windows, doors, siding, trim		√
excessive storage, stairs, sidewalk, tripping hazards		√
ext. entrance lights; entrance doors work properly		√
hand and guard rails		√
<b>Interior</b>		
permitted use; permitted storage- no excessive or combustible	√	
bathroom & # exits meet occupancy load	√	??
proper doors tenant space- size, hardware, closers, swing	√	
proper doors common areas- size, hardware, closers, swing		√ CA
proper door fire rating		√
exit signage- tenant vs. common area	√	√ CA
emergency path illumination- tenant vs. common area	√	√ CA
exits unlocked during hours of operation	√	
exit pathways free of obstruction	√	
occupancy load posted main entrance	√	
maintenance of fire rated walls and separations		√
smoke and carbon monoxide detectors		√
basement in good state of repair		√
stair hand and guard rails- tenant vs. common area	√	√ CA
<b>Plumbing</b>		
<b>existing</b> fixtures property maintained		√
<b>new fixtures property installed and maintained</b>	√	
backflow & cross connection prevention- tenant vs. common area	√	
grease trap properly installed and maintained	√	
commercial sinks properly installed and maintained	√	
water heaters properly installed and maintained		√
water heaters provide adequate hot water		√
<b>HVAC</b>		
<b>existing</b> HVAC equipment properly maintained		√
<b>new HVAC equipment properly installed and maintained</b>	√	
adequate ventilation per occupancy	√	
adequate clearance for equipment	√	
adequate fire separation for equipment rooms		√
proper shut off valves		√
proper pressure relief valves on boilers and water heaters		√
proper HVAC air return		√
exhaust range hoods properly installed to code & mfr specs	√	
exhaust vents properly vented to exterior	√	
mechanical equipment access		√ CA
<b>Electrical</b>		
<b>existing</b> electrical equipment properly maintained		√
<b>new electrical equipt properly installed &amp; maintained</b>	√	
adequate clearance to electrical service equipment	√	
switches/receptacles in good repair- tenant vs. common area	√	√ CA
proper use of extension cords	√	
GFCI outlets within 6 ft of water-tenant vs. common area	√	√ CA
Circuit IDs on main electrical panel		√
approved switch, receptacles, junction boxes, panel covers		√
proper installation of occupancy equipment	√	
proper installation of building equipment used for occupancy	√	
grounding of CSST gas piping		√

# Appendix B

## Commercial Occupancy Program Implementation Chart

Planning & Development Department

