

TITLE 15

Building Code

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CHAPTER 1

Building Code

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SEC. 15-1-1 BUILDING CODE ESTABLISHED.

- (a) **Title.** This Chapter shall be known as the "Building Code of the Village of Spencer" and will be referred to in this Chapter as "this Code," "this Chapter" or "this Ordinance."
- (b) **Purpose.** This Chapter provides certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and/or structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished and regulates the equipment, maintenance, use and occupancy of all such buildings and/or

structures. Its purpose is to protect and foster the health, safety and well-being of persons occupying or using such buildings and the general public.

- (c) **Scope.** New buildings hereafter erected in, or any building hereafter moved within or into the Village, shall conform to all the requirements of this Chapter except as they are herein specifically exempted from part or all of its provisions. Any alteration, enlargement or demolition of an existing building and any installation therein of electrical, gas, heating, plumbing or ventilating equipment which affects the health or safety of the users thereof or any other persons is a "new building" to the extent of such change. Any existing building shall be considered a "new building" for the purposes of this Chapter whenever it is used for dwelling, commercial or industrial purposes, unless it was being used for such purpose at the time this Chapter was enacted. The provisions of this Chapter supplement the laws of the State of Wisconsin pertaining to construction and use and the Zoning Code of the Village and amendments thereto to the date this Chapter was adopted and in no way supersede or nullify such laws and the said Zoning Code.

SEC. 15-1-2 BUILDING PERMITS AND INSPECTION.

(a) **Permit Required.**

- (1) General Permit Requirement. No building of any kind shall be moved within or into the Village and no new building or structure, or any part thereof, shall hereafter be erected, or ground broken for the same, or enlarged, altered, moved, demolished, razed or used within the Village, except as herein provided, until a permit therefor shall first have been obtained by the owner, or his authorized agent, from the Building Inspector.
- (2) Alterations and Repairs. The following provisions shall apply to buildings altered or repaired:
- a. Alterations. When not in conflict with any regulations, alterations to any existing building or structure accommodating a legal occupancy and use but of substandard type of construction, which involves either beams, girders, columns, bearing or other walls, room, heating and air condition systems, arrangement, light and ventilation, changes in location of exit stairways or exits, or any or all of the above, then such existing construction shall be made to conform to the minimum requirements of this Chapter applicable to such occupancy and use and given type of construction.
 - b. Repairs. Repairs for purposes of maintenance, or replacements in any existing building or structure which do not involve the structural portions of the building or structure or which do not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways, or exits, fire protection, or exterior aesthetic appearance and which do not increase a given occupancy or use, shall be deemed minor repairs.
 - c. Alterations When Not Permitted. When any existing building or structure, which, for any reason whatsoever, does not conform to the regulations of this Chapter, has deteriorated from any cause whatsoever to an extent

greater than fifty percent (50%) of the equalized value of the building or structure, no alterations or moving of such building or structure shall be permitted. Any such building or structure shall be considered a menace to public safety and welfare and shall be ordered vacated and thereafter demolished and debris removed from the premises.

- d. Alterations and Repairs Required. When any of the structural members of any building or structure have deteriorated from any cause whatsoever to less than their required strength, the owner of such a building or structure shall cause such structural members to be restored to their required strength; failing in which the building or structure shall be considered a menace to public safety and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the regulations of this Chapter are complied with.
 - e. Extent of Deterioration. The amount and extent of deterioration of any existing building or structure shall be determined by the Building Inspector.
- (b) **Application.** Application for a building permit shall be made in writing upon a form furnished by the Building Inspector or his designee and shall state the name and address of the owner of the land and also the owner of the building if different, the legal description of the land upon which the building is to be located, the name and address of the designer, the use to which said building is to be put and such other information as the Building Inspector may require.
- (c) **Site Plan Approval.**
- (1) Site Plan Approval. All applications for building permits for any construction, reconstruction, expansion or conversion, except for one (1) and two (2) family residences in residentially zoned districts shall require site plan approval by the Village Board in accordance with the requirements of this Section. The applicant shall submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Village Board or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.
 - (2) Administration. The Building Inspector shall make a preliminary review of the application and plans and refer them along with a report of his findings to the Village Board. The Village Board shall review the application and may refer the application and plans to one (1) or more expert consultants selected by the Village Board to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within thirty (30) days of its receipt of the application, the Village Board shall authorize the Building Inspector to issue or refuse a building permit.
 - (3) Requirements. In acting on any site plan, the Village Board shall consider the following:
 - a. The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - b. The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and

unloading; and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.

- c. The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
 - d. The landscaping and appearance of the completed site. The Village Board may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns, and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent of purposes of this Section.
- (4) Effect on Municipal Services. Before granting any site approval, the Village Board may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Building Inspector or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Village Board shall not issue the final approval until the Village has entered into an agreement with the applicant regarding the development of such facilities.
- (5) Appeals. Denials of building permits contingent upon site plan approval may be appealed to the Zoning Board of Appeals by filing a notice of appeal with the Village Clerk-Treasurer within ten (10) days of the denial.
- (d) **Dedicated Street and Approved Subdivision Required.** No building permit shall be issued unless the property on which the building is proposed to be built abuts a street that has been dedicated for street purposes. No building permits shall be issued until the subdivision and required Improvements are accepted by the Village Board.
- (e) **Utilities Required.**
- (1) Residential Buildings. No building permit shall be issued for the construction of any residential building until sewer, water, grading and graveling are installed in the streets necessary to service the property for which the permit is required and a receipt for payment of electrical hookup is presented to the Building Inspector.
 - (2) Non-Residential Building. No building permit shall be issued for the construction of any building other than residential until contracts have been let for the installation of sewer, water, grading and graveling in the streets necessary to service the property for which the permit is requested.
 - (3) Occupancy. No person shall occupy any building until sewer, water, grading and graveling are installed in the streets necessary to service the property and a certificate of occupancy shall not be issued until such utilities are available to service the property.
- (f) **Plans.** With such application, there shall be submitted two (2) complete sets of plans and specifications, including a plot plan showing the location and dimensions of all buildings and improvements on the lot, both existing and

proposed, dimensions of the lot, dimensions showing all setbacks of all buildings on the lot, proposed grade of proposed structure (to Village datum), grade of lot and of the street abutting lot, grade and setback of adjacent buildings (if adjacent lot is vacant, submit elevation of nearest buildings on same side of street), type of monuments at each corner of lot, water courses or existing drainage ditches, easements or other restrictions affecting such property, seal and signature of surveyor or a certificate signed by the applicant and a construction erosion control plan setting forth proposed information and procedures needed for control of soil erosion, surface water runoff and sediment disposition at the building site. Plans, specifications and plot plans shall be drawn to a minimum scale of one-quarter (1/4) inch to one (1) foot (fireplace details to three-quarters (3/4) inch to one (1) foot]. One (1) set of plans shall be returned after approval as provided in this Chapter. The second set shall be filed in the office of the Building Inspector. Plans for buildings involving the State Building Code shall bear the stamp of approval of the State Department of Industry, Labor and Human Relations. One (1) plan shall be submitted which shall remain on file in the office of the Building Inspector. All plans and specifications shall be signed by the designer. Plans for all new one (1) and two (2) family dwellings shall comply with the provisions of Chapter ILHR 20.09(4), Wis. Adm. Code.

(g) Waiver of Plans; Minor Repairs.

- (1) Waiver. If the Building Inspector finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations, repairs or moving, provided the cost of such work does not exceed Ten Thousand Dollars (\$10,000.00).
- (2) Minor Repairs. The Building Inspector may authorize minor repairs or maintenance work on any structure or to heating, ventilating or air conditioning systems installed therein valued at less than One Thousand Dollars (\$1,000.00), as determined by the Building Inspector, which do not change the occupancy area, exterior aesthetic appearance, structural strength, fire protection, exits, light or ventilation of the building or structure without issuance of a building permit. Permits are not required for roofing.

(h) Approval of Plans.

- (1) If the Building Inspector determines that the building will comply in every respect with all Ordinances and orders of the Village and all applicable laws and orders of the State of Wisconsin, he shall issue a building permit which shall state the use to which said building is to be put, which shall be kept and displayed at the site of the proposed building. After being approved, the plans and specifications shall not be altered in any respect which involves any of the above-mentioned Ordinances, laws or orders, or which involves the safety of the building or the occupants, except with the written consent of the Building Inspector.
- (2) In case adequate plans are presented for part of the building only, the Building Inspector, at his discretion, may issue a permit for that part of the building before receiving the plans and specifications for the entire building.

(i) **Inspection of Work.** The builder shall notify the Building Inspector when ready for inspections and the Building Inspector shall inspect within two (2) business days after notification all buildings at the following states of construction:

- (1) Footings and foundation. Prior to pouring of the foundation, the builder shall supply an adequate site plan;
- (2) General framing, rough electrical, plumbing and heating;
- (3) Insulation; and
- (4) Completion of the structure.

If he finds that the work conforms to the provisions of this Chapter, he shall issue a certification of occupancy which shall contain the date and the result of such inspection, a duplicate of which shall be filed in the office of the Building Inspector.

(j) **Permit Lapses.** A building permit shall lapse and be void unless building operations are commenced within six (6) months or if construction has not been completed within one (1) year from the date of issuance thereof.

(k) **Revocation of Permits.**

(1) The Building Inspector may revoke any building, plumbing or electrical permit, certificate of occupancy, • or approval issued under the regulations of this Chapter and may stop construction or use of approved new materials, equipment, methods of construction, devices or appliances for any of the following reasons:

- a. Whenever the Building Inspector shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the holder of the permit refused to conform after written warning or construction has been issued to him.
- b. Whenever the continuance of any construction becomes dangerous to life or property.
- c. Whenever there is any violation of any condition or provisions of the application for permit or of the permit.
- d. Whenever, in the opinion of the Building Inspector, there is inadequate supervision provided on the job site.
- e. Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, data specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
- f. Whenever there is a violation of any of the conditions of an approval or occupancy given by the Building Inspector for the use of all new materials, equipment, methods or construction devices or appliances.

(2) The notice revoking a building, plumbing or electrical certificate of occupancy or approval shall be in writing and may be served upon the applicant of the permit, owner of the premises and his agent, if any, and on the person having charge of construction.

(3) A revocation placard shall also be posted upon the building, structure, equipment or premises in question by the Building Inspector.

(4) After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall

be null and void, and before any construction or operation is again resumed, a new permit, as required by this Chapter, shall be procured and fees paid therefor, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Chapter. However, such work as the Building Inspector may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he may require for the preservation of life and safety.

- (l) **Report of Violations.** Village officers shall report at once to the Building Inspector any building which is being carried on without a permit as required by this Chapter.
- (m) **Display of Permit.** Building permits shall be displayed in a conspicuous place on the premises where the authorized building or work is in progress at all times during construction or work thereon.

SEC. 15-1-3 STATE UNIFORM DWELLING CODE ADOPTED.

- (a) **State Code Adopted.** The administrative code provisions describing and defining regulations with respect to one (1) and two (2) family dwellings in Chapters ILHR 20 through 25 of the Wisconsin Administrative Code are hereby adopted and by reference made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by an Administrative Code provision incorporated herein by reference is required or prohibited by this Chapter. Any future amendments, revisions or modifications of the Administrative Code provisions incorporated herein are intended to be made part of this Chapter to secure uniform statewide regulation of one (1) and two (2) family dwellings in this Village. A copy of these administrative code provisions and any future amendments shall be kept on file in the Village Clerk-Treasurer's Office.
- (b) **Existing Buildings.** The "Wisconsin Uniform Dwelling Code" shall also apply to buildings and conditions where:
 - (1) An existing building to be occupied as a one (1) or two (2) family dwelling, which building was not previously so occupied.
 - (2) An existing structure that is altered or repaired, when the cost of such alteration or repair during the life of the structure exceeds fifty percent (50%) of the equalized value of the structure, said value to be determined by the Village Assessor.
 - (3) Additions and alterations, regardless of cost, made to an existing building when deemed necessary in the opinion of the Building Inspector shall comply with the requirements of this Chapter for new buildings. The provisions of Section 15-1-2 shall also apply.
 - (4) Roof Coverings -- Whenever more than twenty-five percent (25%) of the roof covering of a building is replaced in any twelve (12) month period, all roof covering shall be in conformity with applicable Sections of this Chapter.
 - (5) Additions and alterations -- Any addition or alteration, regardless of cost, made to a building shall be made in conformity with applicable Sections of this Chapter.
- (c) **Definitions.**

- (1) Addition. "Addition" means new construction performed on a dwelling which increases the outside dimensions of the dwelling.
- (2) Alteration. "Alteration" means a substantial change or modification other than an addition or minor repair to a dwelling or to systems involved within a dwelling.
- (3) Department. "Department" means the Department of Industry, Labor and Human Relations.
- (4) Dwelling. "Dwelling" means:
 - a. Any building, the initial construction of which is commenced on or after the effective date of this Chapter which contains one (1) or two (2) dwelling units; or
 - b. An existing structure, or that part of an existing structure, which is used or intended to be used as a one (1) or two (2) family dwelling.
- (5) Minor Repair. "Minor repair" means repair performed for maintenance or replacement purposes on any existing one (1) or two (2) family dwelling which does not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection or exterior aesthetic appearance and which does not increase a given occupancy and use. No building permit is required for work to be performed which is deemed . minor repair.
- (6) One (1) or Two (2) Family Dwelling. "A one (1) or two (2) family dwelling" means a building structure which contains one (1) or separate households intended to be used as a home, residence. or sleeping place by an individual or by two (2) or more individuals maintaining a common household to the exclusion of all others. One and Two family dwelling must include an attached or detached garage placed on the property with a size no smaller than 20 feet by 22 feet. Garage must be built and completed within one year of the date of the building permit for the dwelling. If any construction work not completed on the dwelling and the garage governed by the provisions of this chapter or the Uniform Dwelling Code, additional fees shall be charged pursuant to Sec. 14-1-101(b)(1).
- (7) Person. "Person" means an individual, partnership, firm or corporation.
- (8) Uniform Dwelling Code. "Uniform Dwelling Code" means those Administrative Code Provisions and any future amendments, revisions or modifications thereto, contained in the following chapters of the Wisconsin Administrative Code:

Wis. Adm. Code Chapter ILHR 20 – Administrative and Enforcement

Wis. Adm. Code Chapter ILHR 21 – Construction Standards

Wis. Adm. Code Chapter ILHR 22 – Energy Conservation Standards

Wis. Adm. Code Chapter ILHR 23 – Heating, Ventilating and Air
Conditioning

Wis. Adm. Code Chapter ILHR 24 – Electrical Standards

Wis. Adm. Code Chapter ILHR 25 – Plumbing and Potable Water Standards

(d) Method of Enforcement.

- (1) Certified Inspector to Enforce. The Building Inspector and his delegated representatives are hereby authorized and directed to administer and enforce all of the provisions of the Uniform Dwelling Code. The Building Inspector shall be certified for inspection purposes by the Department in each of the categories specified under Sec. ILHR 26.06, Wis. Adm. Code.
- (2) Subordinates. The Building Inspector may appoint, as necessary, subordinates as authorized by the Village Board.
- (3) Duties. The Building Inspector shall administer and enforce all provisions of this Chapter and the Uniform Dwelling Code.
- (4) Inspection Powers. The Building Inspector or an authorized certified agent may at all reasonable hours enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or refuse to permit access to any such premises to the Building Inspector or his agent while in performance of his duties.
- (5) Records. The Building Inspector shall perform all administrative tasks required by the Department under the Uniform Dwelling Code. In addition, the Inspector shall keep a record of all applications for building permits in a book for such purpose and shall regularly number each permit in the order of its issue. Also, a record showing the number, description and size of all buildings erected indicating the kind of materials used and the cost of each building and aggregate cost of all one (1) and two (2) family dwellings shall be kept.

SEC. 15-1-4 CONSTRUCTION STANDARDS; CODES ADOPTED.

- (a) **Portions of State Building Code Adopted.** Chapters ILHR 50 through ILHR 64, Wis. Adm., Code (Wisconsin State Building Code) are hereby adopted and made a part of this Chapter with respect to those classes of buildings to which this Building Code specifically applies. Any future amendments, revisions and modifications of said Chs. 50 to 64 incorporated herein are intended to be made a part of this Code. A copy of said Chs. 50 to 64 and amendments thereto shall be kept on file in the office of the Building Inspector.
- (b) **State Plumbing Code Adopted.** The provisions and regulations of Ch. 145, Wis. Stats., and Wis. Adm. Code Chs. H 81, H 82, H 83 and ILHR 25 are hereby made a part of this Chapter by reference and shall extend over and govern the installation of all plumbing installed, altered or repaired in the Village. Any further amendments, revisions and modifications of said Wisconsin Statutes and Administrative Code herein are intended to be made part of this Chapter.
- (c) **State Electrical Code Adopted.**
 - (1) Wis. Adm. Code ILHR 24 is hereby adopted by reference and made a part of this Chapter and shall apply to the construction and inspection of new one (1) and two (2) family dwellings and additions or modifications to existing one (1) and two (2) family dwellings.
 - (2) Subject to the exceptions set forth in this Chapter, the Electrical Code, Volume 1, and Rules of Electrical Code, Volume 2, of the Wisconsin

Administrative Code are hereby adopted by reference and made a part of this Section and shall apply to all buildings, except those covered in Subsection (1) above.

- (d) **Conflicts.** If, in the opinion of the Building Inspector and the Village Board, the provisions of the State Building Code adopted by Subsection (a) of this Section shall conflict with the provisions of the Federal Housing Administration standards in their application to any proposed building or structure, the Inspector and! or the Village shall apply the most stringent provisions in determining whether or not the proposed building meets the requirements of this Section.

SEC. 15-1-5 ELECIRICAL PERMITS.

- (a) **Permit.** No electrical wiring or other equipment shall be installed without first securing a permit therefor from the Building Inspector, except that repairs or replacements of broken or defective sockets, switches or base receptacles may be made without a permit.
- (b) **Application.** The application for such permit shall be on a form furnished by the Building Inspector and shall state clearly the work planned, alterations to be made, and equipment and materials to be used, and all later deviations from such plan must be submitted to and approved by the Building Inspector.
- (c) **Inspection of Work.** After roughing the wiring of any building and before any such work is covered up, or upon completion of any outside Wiring construction work, it shall be the duty of the person doing the work to notify the Building Inspector who shall inspect the same within forty-eight (48) hours during the normal work week. An inspection shall also be made when the service entrance is installed. Upon completion of such wiring, the inspector shall be notified and shall inspect the finished work. If he finds that the work conforms to the State Electrical Code, he shall issue a certificate of compliance which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in the office of the Building Inspector. It shall be unlawful to use any such electrical equipment until such certificate has been issued.

SEC. 15-1-6 PLUMBING PERMITS.

- (a) **Permit.** No plumbing or drainage of any kind shall be installed or altered, except that leakage or storage repairs may be made, without first securing a permit therefor from the Building Inspector.
- (b) **Application.** The application for such permit shall be on a form furnished by the Building Inspector and shall state clearly the work planned, alterations to be made, and equipment and the materials to be used. All later deviations from such plan must be submitted to and approved by the Building Inspector.
- (c) **Licensed Plumber Required.** All plumbing work shall be done only by a plumber licensed by the State of Wisconsin, except that a property owner may make repairs or installations in a single family building owned and occupied by him as his home, provided, that a permit is issued and the work is done in compliance with the provisions of this Chapter.

- (d) **Inspection of Work.** Upon completion of the plumbing work on any premises the person doing such work shall notify the Building Inspector before such work is covered up, and the Building Inspector shall, within forty-eight (48) hours during the normal work week, inspect the work. Laterals shall be inspected as far as practicable within two (2) hours after notice is given. If he finds that the work conforms to the State Plumbing Code, he shall issue a certificate of compliance which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in any plumbing or drainage until it has been inspected and approved.

SEC. 15-1-1 NEW METHODS AND MATERIALS.

- (a) All materials, methods of construction and devices designed for use in buildings or structures covered by this Section and not specifically mentioned in or permitted by this Section shall not be so used until approved in writing by the State Department of Industry, Labor and Human Relations for use in buildings or structures covered by the Wisconsin State Building Code, except sanitary appliances, which shall be approved in accordance with the State Plumbing Code.
- (b) Such materials, methods of construction and devices, when approved, must be installed or used in strict compliance with the manufacturer's specifications and any rules or conditions of use established by the State Department of Industry, Labor and Human Relations. The data, test and other evidence necessary to prove the merits of such material, method of construction or device shall be determined by the State Department of Industry, Labor and Human Relations.

SEC. 15-1-8 UNSAFE BUILDINGS.

Whenever the Building Inspector and Village Board find any building or part thereof within the Village to be, in their judgment, so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human occupancy or use and so that it would be unreasonable to repair the same, they shall order the owner to raze and remove such building or part thereof or, if it can be made safe by repairs, to repair and make safe and sanitary, or to raze and remove at the owner's option such order and proceedings shall be as provided in Sec. 66.05, Wis. Stats.

SEC. 15-1-9 DISCLAIMER ON INSPECTIONS.

The purpose of the inspections under this Chapter is to improve the quality of housing in the Village. The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed, as a guarantee. In order to so advise owners and other interested persons, the following disclaimer shall be applicable to all inspections under this Chapter: "These findings of inspection contained herein are intended to report conditions of noncompliance with code standards that are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and nonstructural elements of the

building and premises. No warranty of the operation, use or durability of equipment and materials not specifically cited herein is expressed or implied."

SEC. 15-1-10 REGULATION AND PERMIT FOR RAZING BUILDINGS.

- (a) No building within the Village of Spencer shall be razed without a permit from the Building Inspector. A snow fence or other approved barricade shall be provided as soon as any portion of the building is removed and shall remain during razing operations. After all razing operations have been completed, the foundation shall be filled at least one (1) foot above the adjacent grade, the property raked clean, and all debris hauled away. Razing permits shall lapse and be void unless the work authorized thereby is commenced within six (6) months from the date thereof or completed within thirty (30) days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required thirty (30) days must have special approval from the Building Inspector.
- (b) All debris must be hauled away at the end of each week for the work that was done on that week. No combustible material shall be used for backfill, but shall be hauled away. There shall not be any burning of materials on the site of the razed building. If any razing or removal operation under this Section results in, or would likely result in, an excessive amount of dust particles in the air creating a nuisance in the vicinity thereof, the permittee shall take all necessary steps, by use of water spraying or other appropriate means, to eliminate such nuisance. The permittee shall take all necessary steps, prior to the razing of a building, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building as to prevent the spread and migration of rodents and insects therefrom during and after the razing operations.

SEC. 15-1-11 BASEMENTS; EXCAVATIONS.

- (a) **Basement Subflooring.** First floor subflooring shall be completed within sixty (60) days after the basement is excavated.
- (b) **Fencing of Excavations.** The owner of any premises on which there exists an opening or excavation which is located in close proximity to a public sidewalk or street right-of-way as to constitute a hazard to pedestrian or vehicular traffic shall erect a fence, wall or railing at least four (4) feet high between such opening or excavation and the public right-of-way.
- (c) **Closing of Abandoned Excavations.** Any excavation for building purposes or any uncovered foundation which shall remain open for more than three (3) months shall be deemed abandoned and a nuisance and the Building Inspector shall order that unless the erection of the building or structure on the excavation or foundation shall commence or continue forthwith suitable safeguards shall be provided to prevent accidental injury to children or other

frequenters or that the excavation or foundation be filled to grade. Such order shall be served upon the owner of record or the owner's agent, where an agent is in charge of the premises, and upon the holder of an encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or the holder of an encumbrance of record cannot be found, the order may be served by posting it on the premises and make publication in the official newspaper for two (2) consecutive publications at least ten (10) days before the time for compliance stated in the order commences to run. Such time shall be not less than fourteen (14) nor more than twenty (20) days after service. If the owner of the land fails to comply with the order within the time required, the Building Inspector shall cause the excavation or foundation to be filled to grade. The cost of such abatement shall be charged against the real estate and entered on the next succeeding tax roll as a special charge and shall bear interest at a rate established by the Village Board from the date of the report by the Building Inspector on the cost thereof, pursuant to the provisions of Sec. 66.60, Wis. Stats.

- (d) **Basements; Excavations.** The top of the basement wall for a conventional ranch home shall be no lower than 18” or no more than 24” in height measured off the nearest man hole to the home. If that distance will not be satisfactory for the home owner/builder they must then make an application to the Planning Commission for a variance in height. The Village of Spencer will not allow a new home to be built any lower than 18” above the closest manhole. If your home is not a conventional home and would need other measurements for building please contact the head of the Public Works Department. There might be other circumstances that would prevent the home owner/builder to use the above measurements and if that situation arises please contact the head of the Public Works Department.

SEC. 15-1-12 DISCHARGE OF CLEAR WATERS.

- (a) **Discharge.** No person shall cause, allow or permit any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises owned or occupied by said person to discharge into a sanitary sewer.
- (b) **Nuisance.** The discharge into a sanitary sewer from any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises is hereby declared to be a public nuisance and a hazard to the health, safety and well-being of the residents of the Village and to the protection of the property.
- (c) **Groundwater.** Where deemed necessary by the Building Inspector, every house shall have a sump pump installed for the purpose of discharging clear waters from foundation drains and ground infiltration and where the building is not serviced

by a storm sewer shall either discharge into an underground conduit leading to a drainage ditch, gutter, dry well or shall discharge onto the ground surface in such other manner as will not constitute a nuisance as defined herein.

- (d) **Storm Water.** All roof drains, surface drains, drains from any mechanical device, gutters, pipe, conduits or any other objects or things used for the purpose of collecting, conducting, transporting, diverting, draining or discharging storm waters shall be discharged either to a storm sewer, a dry well, an underground conduit leading to a drainage ditch or onto the ground surface in such other manner as will not constitute a nuisance as defined herein.
- (e) **Storm Sewer Lateral.** Where municipal storm sewers are provided and it is deemed necessary by the property owner and/or the Village to discharge clear waters from a parcel of land, a storm sewer lateral shall be installed and connected to the storm sewer main at the expense of the owner.
- (f) **Conducting Tests.** If the Building Inspector or his designated agent suspects an illegal clear water discharge as defined by this Chapter or by any other applicable provision of the Wisconsin Administrative Code as it may, from time to time, be amended, he may, upon reasonable notice and at reasonable times, enter the private premises where such illegal clear water discharge is suspected and conduct appropriate tests to determine whether such suspected illegal clear water discharge actually exists.

SEC. 15-1-13 DUPLEX SERVICE CONNECTIONS.

Each unit of a duplex shall have a separate water and sewer services.

SEC. 15-1-14 REGULATIONS FOR MOVING BUILDINGS.

- (a) **General Requirements.**
 - (1) No person shall move any building or structure upon any of the public ways of the Village of Spencer without first obtaining a permit therefor from the Building Inspector and upon the payment of the required fee. Every such permit issued by the Building Inspector for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued.
 - (2) A report shall be made by Village employees with regard to possible damage to trees. The estimated cost of trimming, removal and replacement of public trees, as determined by the Village, shall be paid to the Village Clerk-Treasurer prior to issuance of the moving permit.
 - (3) Issuance of moving permit shall further be conditioned on approval of the moving route by the Village Board.
- (b) **Continuous Movement.** The movement of buildings shall be a continuous operation during all the hours of the day and at night, until such movement is fully completed. All such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection or so near thereto as to prevent easy

- access to any fire hydrant or any other public facility. Lights shall be kept in conspicuous places at each end of the building during the night.
- (c) **Street Repair.** Every person receiving a permit to move a building shall, within one (1) day after said building reaches its destination, report that fact to the Building Inspector, inspect the streets, highways and curbs and gutters over which said building has been moved and ascertain their condition. If the removal of said building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place them in as good repair as they were before the permit was granted. On the failure of the said permittee to do so within ten (10) days thereafter to the satisfaction of the Village Board, the Village shall repair the damage done to such streets and hold the person obtaining such permit and the sureties on his bond responsible for the payment of same.
- (d) **Conformance with Code.** No permit shall be issued to move a building within or into the Village and to establish it upon a location within the said Village until the Building Inspector has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that said building is in a sound and stable condition and of such construction that it will meet the requirements of this Building Code in all respects. A complete plan of all further repairs, improvements and remodeling with reference to such building shall be submitted to the Building Inspector, and he shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this Building Code and that, when the same are completed, the building as such will so comply with said Building Code. In the event a building is to be moved from the Village to some point outside the boundaries thereof, the provisions with respect to the furnishing of plans and specifications for proposed alterations to such building may be disregarded.
- (e) **Bond.**
- (1) Before a permit is issued to move any building over any public way in the Village, the party applying therefor shall give a bond to the Village of Spencer in a sum to be fixed by the Building Inspector and which shall not be less than One Thousand Dollars (\$1,000.00), said bond to be executed by a corporate surety or two (2) personal sureties to be approved by the Village Board or designated agent conditioned upon, among other things, the indemnification to the Village for any costs or expenses incurred by it in connection with any claims for damages to any persons or property, and the payment of any judgment together with the costs and expenses incurred by the Village in connection therewith arising out of the removal of the building for which the permit is issued.
 - (2) Unless the Building Inspector, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the exposed excavation, such as to make intrusion upon the premises and the falling into such excavation of children under twelve (12) years of age unlikely, the bond required by Subsection (e)(1) shall be further conditioned upon the permittee erecting adequate barriers and within forty-

eight (48) hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the Building Inspector and reasonably adopted or calculated to prevent the occurrences set forth herein.

- (f) **Insurance.** The Building Inspector shall require, in addition to said the said bond above indicated, public liability insurance covering injury to one (1) person in the sum of not less than One Hundred Thousand Dollars (\$100,000.00) and for one (1) accident in a sum not less than Two Hundred Thousand Dollars (\$200,000.00), together with property damage insurance in a sum not less than Fifty Thousand Dollars (\$50,000.00), or such other coverage as deemed necessary.

SEC. 15-1-15 FEES.

- (a) **Fees.** Permit fees shall be established by resolution of the Village Board.
- (b) **Failure to Obtain Permit.** No one may begin work prior to obtaining a permit. Double permit fees shall be charged if work is begun prior to the issuance of a permit and triple fees shall be charged if the permit is not obtained within two (2) business days, excluding the day of service, after the service of a citation for failure to obtain a permit by any person so authorized to issue citations under this Code of Ordinances.

SEC. 15-1-16 SEVERABILITY.

If any section, clause, provision or portion of this Chapter, or of the Wisconsin Administrative Code adopted by reference, is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

SEC. 15-1-17 PENALTIES AND VIOLATIONS.

- (a) Any building or structure hereafter erected, enlarged, altered or repaired or any use hereafter established in violation of the provisions of this Chapter shall be deemed an unlawful building, structure or use. The Building Inspector shall promptly report all such violations to the Village Board and Village Attorney who shall bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building or structure or the establishment of such use of buildings in violation of this Chapter or to cause such building, structure or use to be removed and may also be subject to a penalty as provided in general penalty provisions of the Code of Ordinances, In any such action, the fact that a permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the Building Inspector or other Village officials constitute a defense. Compliance with the provisions of this Chapter may also be enforced by injunctive order at the suit of the owner or owners of any real estate within the jurisdiction of this Chapter.
- (b)
- (1) If an inspection reveals a noncompliance with this Chapter or the Uniform Dwelling Code, the Building Inspector shall notify the applicant and the

owner, in writing, of the Violation to be corrected. All cited violations shall be corrected within thirty (30) days after written notification unless an extension of time is granted pursuant to Sec. ILHR 20.10(1)(c), Wis. Adm. Code.

- (2) If, after written notification, the violation is not corrected within thirty (30) days, a stop-work order may be served on the owner or his or her representative and a copy thereof shall be posted at the construction site. Such stop-work order shall not be removed except by written notice of the Building Inspector after satisfactory evidence has been supplied that the cited violation has been corrected.
- (3) Each day each violation continues after the thirty (30) day written notice period has run shall constitute a separate offense. Nothing in this Chapter shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter or the Uniform Dwelling Code.
- (4) If any construction or work governed by the provisions of this Chapter or the Uniform Dwelling Code is commenced prior to the issuance of a permit, additional fees shall be charged pursuant to Section 14-1-101(b)(1).
- (c) Any person feeling aggrieved by an order or a determination of the Building Inspector may appeal from such order or determination to the Board of Appeals. Those procedures customarily used to effectuate an appeal to the Board of Appeals shall apply.
- (d) Except as may otherwise be provided by the statute or ordinance, no officer, agent or employee of the Village of Spencer charged with the enforcement of this Chapter shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. Any suit brought against any officer, agent or employee of the Village as a result of any act required or permitted in the discharge of his duties under this Chapter shall be defended by the legal representative of the Village until the final determination of the proceedings therein.

CHAPTER 2

Construction Site Erosion Control

15-2-1	Authority
15-2-2	Findings and Purpose
15-2-3	Applicability of Regulations
15-2-4	Definitions
15-2-5	Design Criteria, Standards and Specifications for Control Measures
15-2-6	Maintenance of Control Measures
15-2-7	Control of Erosion and Pollutants During Land Disturbance and Development
15-2-8	Permit Application, Control Plan and Permit Issuance
15-2-9	Inspection Enforcement
15-2-10	Prohibition of Vehicle Debris on Public Ways
15-2-11	Appeals

SEC. 15-2-1 AUTHORITY.

This Chapter is adopted pursuant to the guidelines in Sec. 62.2345, Wis. Stats.

SEC. 15-2-2 FINDINGS AND PURPOSE.

- (a) **Findings.** The Village Board finds runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the state and the Village of Spencer.
- (b) **Purpose.** It is the purpose of this Chapter to preserve the natural resources; to protect the quality of the waters of the state and Village; and to protect and promote the health, safety and welfare of the people, to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharge from construction sites to lakes, streams and wetlands.

SEC. 15-2-3 APPLICABILITY OF REGULATIONS.

This Chapter applies to land disturbing and land developing activities on land within the boundaries and jurisdiction of the Village and the public and private lands subject to

extraterritorial review under Ch, 236, Wis. Stats. All state funded or conducted construction is exempt from this Chapter.

NOTE: State funded or conducted construction activities must meet the requirements contained in the "State Plan for the Control of Construction Erosion and Stormwater Runoff", which contains similar requirements as contained in this Chapter, as a minimum.

SEC. 15-2-4 DEFINITIONS.

- (a) **Agricultural Land Use.** Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.
- (b) **Commercial Land Use.** Use of land for the retail or wholesale sale of goods or services.
- (c) **Construction Site Control Measure.** A control measure used to meet the requirements of Section 15-2-7(b).
- (d) **Control Measure.** A practice or combination of practices to control erosion and attendant pollution.
- (e) **Control Plan.** A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this Chapter submitted by the applicant for review and approval by the Building Inspector.
- (f) **Erosion.** The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
- (g) **Land Developing Activity.** The construction of buildings, roads, parking lots, paved storage areas and similar facilities.
- (h) **Land Disturbing Construction Activity.** Any man-made change of the land surface including removing vegetation cover, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications.
- (i) **Landowner.** Any person holding title to or having any interest in land.
- (j) **Land User.** Any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes uses of his land.
- (k) **Runoff.** The rainfall, snowmelt, or irrigation water flowing over the ground surface.
- (l) **Set of One (1) Year Design Storms.** The following rain intensities and rain volumes or corresponding values specific to the community for the storm durations of 0.5, 1, 2, 3, 6, 12 and 24 hours that occur approximately one per year. The following are typical characteristics of these one year storms for most of Wisconsin.

Storm Duration
(Hours)

Rain Intensity
(Inches/Hour)

Average Total Rain
(Inches)

0	1.8	0.9
1	1.1	1.1
2	0.7	1.3
3	0.5	1.5
6	0.3	1.7
12	0.2	2.0
24	0.1	2.3

(m) **Site.** The entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.

SEC. 15-2-5 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR CONTROL MEASURES.

All control measures required to comply with this Chapter shall meet the design criteria, standards and specifications for the control measures based on accepted design criteria, standards and specifications identified by the Building Inspector.

SEC. 15-2-6 MAINTENANCE OF CONTROL MEASURES.

All sedimentation basins and other control measures necessary to meet the requirements of this Chapter shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.

SEC. 15-2-7 CONTROL OR EROSION AND POLLUTANTS DURING LAND DISTURBANCE AND DEVELOPMENT.

- (a) **Applicability.** This Section applies to the following sites of land development or land disturbing activities:
- (1) Those requiring a subdivision plat approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved certified surveys.
 - (2) Those requiring a certified survey approval or the construction of houses of commercial, industrial or institutional buildings on lots of approved certified surveys.
 - (3) Those involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of four thousand (4,000) square feet or more.
 - (4) Those involving excavation or filling or a combination of excavation and filling affecting four hundred (400) cubic yards or more of dirt, sand or other excavation or fill material.
 - (5) Those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.

- (6) Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of three hundred (300) feet or more.

NOTE: The above applicability criteria are specifically stated in 1983 Wisconsin Act 416 for inclusion in this Chapter. Utility companies responsible for energy repair work should enter into a "memorandum of agreement" with the Building Inspector clearly stating their responsibilities if their activities may be included under any of the above applicability criteria.

(b) **Erosion and Other Pollutant Control Requirements.** The following requirements shall be met on all sites described in Subsection (a)

- (1) Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up-slope chambers, hydro-cyclones, swirl concentrators, or other appropriate controls designed and used to remove particles of one hundred (100) microns or greater for the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than one hundred (100) microns during dewatering operations, then no control is needed before discharge, except as determined by the Building Inspector. Water may not be discharged in a manner that causes erosion of the site or receiving channels.

NOTE: There are several ways to meet this particle size performance objective, depending on the pumping rate. As an example, if the pumping rate is very low (1 gal/min), then an inclined or vertical enlargement pipe (about 8" in diameter for 1 gal/min) several feet long would be an adequate control device to restrict the discharge of one hundred (100) micron, and larger, particles. As the pumping rate increases, then the "device" must be enlarged. At a moderate (100 gal/min) pumping rate, a vertical section of corrugated steel pipe, or concrete pipe section, or other small "tank" (about 4-1/2 feet across for a 100 gal/min pumping rate) several feet tall would be adequate. With these pipe sections or small tanks, inlet baffles would be needed to minimize turbulence. With very large pumping rates (10,000 gal/min), sediment basins (about 35 feet in diameter for a pumping rate of 10,000 gal/min) at least three (3) feet in depth with a simple (but adequately sized) pipe outlet would be needed. More sophisticated control devices (such as swirl concentrators or hydro-cyclones) could be specially fabricated that would generally be smaller than the simple sedimentation devices described above, but they would not be required.

- (2) Waste and Material Disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed and not allowed to be carried by runoff into a receiving channel or storm sewer system.
- (3) Tracking. Each non-residential site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways.

- (4) Drain Inlet Protection. All storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier meeting accepted design criteria, standards and specifications.
- (5) Site Erosion Control. The following criteria apply only to land development or land disturbing activities that result in runoff leaving the site:
- a. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in Subsection (b)(5)c.3. Sheetflow runoff from adjacent areas greater than ten thousand (10,000) square feet in area shall also be diverted around disturbed areas unless shown to have resultant runoff velocities of less than 0.5 ft/sec. across the disturbed area for the set of one (1) year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.

NOTE: Soil and Conservation Service guidelines for allowable velocities in different types of channels should be followed.

- b. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at anyone time.
- c. Runoff from the entire area disturbed area on the site shall be controlled by meeting either of the following:
 1. All disturbed ground left inactive for seven (7) or more days shall be stabilized by seeding or sodding (only available prior to September 15th) or by mulching or covering, or other equivalent control measure.
 2. For sites with more than ten (10) acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one (1%) percent of the area draining to the basin and at least three (3) feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three (3) feet. The basin shall be designed to trap sediment greater than fifteen (15) microns in size, based on the set of one (1) year design storms having durations from 0.5 to 24 hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
 3. For sites with less than ten (10) acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.
- d. Any soil or dirt storage piles containing more than ten (10) cubic yards of material should not be located with a downslope drainage length of less than twenty-five (25) feet to a roadway or drainage channel. If remaining for more than seven (7) days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than seven (7) days shall be controlled by placing straw

bales or filter fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than twenty-five (25) feet of a roadway or drainage channel must be covered with tarps or suitable alternative control if exposed for more than seven (7) days, and the storm drain inlets must be protected with straw bales or other appropriate filtering barriers.

SEC.15-2-8 PERMIT APPLICATION, CONTROL PLAN, AND PERMIT ISSUANCE.

- (a) **Permit Application.** No landowner or land user may commence a land disturbance or land development activity subject to this Chapter without receiving prior approval of a control plan for the site and a permit from the Building Inspector. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this Chapter shall submit an application for a permit and a control plan and pay an application fee to the Building Inspector. By submitting an application, the applicant is authorizing the Building Inspector to enter the site to obtain information required for a review of the control plan.
- (b) **Content of the Control Plan for Land Disturbing Activities Covering More Than One Acre.**
 - (1) Existing Site Map. A map of existing site conditions on a scale of at least one (1) inch equals one hundred (100) feet showing the site and immediately adjacent areas:
 - a. Site boundaries of adjacent lands which accurately identify site location;
 - b. Lakes, streams, wetlands, channels, ditches and other water courses on and immediately adjacent to the site. (Note: The local unit of government should identify sensitive local waters that may need to be further addressed by the control plan.);
 - c. One hundred (100) year floodplains, flood fringes and floodways;
 - d. Location of the predominant soil types;
 - e. Vegetative cover;
 - f. Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site;
 - g. Locations and dimensions of utilities, structures, roads, highways, and paving; and
 - h. Site topography at a contour interval not to exceed five (5) feet.
 - (2) Plan of Final Site Conditions. A plan of final site conditions on the same scale as the existing site map showing the site changes.
 - (3) Site Construction Plan. A site construction plan including:
 - a. Locations and dimensions of all proposed land disturbing activities;
 - b. Locations and dimensions of all temporary soil or dirt stockpiles;
 - c. Locations and dimensions of all construction site management control measures necessary to meet the requirements of this Chapter;

- d. Schedule of anticipated starting and completion date of each land disturbing or land developing activity including the installation of construction site control measures needed to meet the requirements of this Chapter; and
 - e. Provisions of maintenance of the construction site control measures during construction.
- (c) **Content of Control Plan Statement for Land Disturbing Activities Covering Less Than One Acre, But Meeting the Applicability Requirements Stated in Sec. 15-2-7(a).** An erosion control plan statement (with simple map) shall be submitted to briefly describe the site and erosion controls (including the site development schedule) that will be used to meet the requirements of the Chapter.
- (d) **Review of Control Plan.** Within forty-five (45) days of receipt of the application, control plan (or control plan statement), and fee, the Building Inspector shall review the application and control plan to determine if the requirements of this Chapter are met. The Building Inspector shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the Building Inspector shall inform the applicant in writing and may either require needed information or disapprove the plan. Within thirty (30) days of receipt of needed information, the Building Inspector shall again determine if the plan meets the requirements of this Chapter. If the plan IS disapproved, the Building Inspector shall inform the applicant in writing of the reasons for the disapproval.
- (e) **Permits.**
- (1) Duration. Permits shall be valid for a period of one hundred eighty (180) days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Building Inspector may extend the period one or more times for up to an additional one hundred eighty (180) days. The Building Inspector may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this Chapter.
 - (2) Surety Bond. As a condition of approval and issuance of the permit, the Building Inspector may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved control plan and any permit conditions.
 - (3) Permit Conditions. All permits shall require the permittee to:
 - a. Notify the Building Inspector within forty-eight (48) hours of commencing any land disturbing activity;
 - b. Notify the Building Inspector of completion of any control measures within fourteen (14) days after their installation;
 - c. Obtain permission in writing from the Building Inspector prior to modifying the control plan;
 - d. Install all control measures as identified in the approved control plan;
 - e. Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the control plan;
 - f. Repair any situation or erosion damage to adjoining surfaces and drainageways resulting from land developing or disturbing activities;

- g. Inspect the construction control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs;
- h. Allow the Building Inspector to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan; and
- i. Keep a copy of the control plan on the site.

SEC.15-2-9 INSPECTION.

The Building Inspector shall inspect construction sites at least once a month during the period starting March 1 and ending October 31 and at least two (2) times during the period starting November 1 and ending February 28 to ensure compliance with the control plan. If land disturbing or land development activities are being carried out without a permit, the Building Inspector shall enter the land pursuant to the provisions of Sections 66.122 and 66.123, Wis. Stats.

SEC.15-2-10 ENFORCEMENT.

- (a) The Building Inspector may post a stop-work order if:
 - (1) Any land disturbing or land developing activity regulated under this Chapter is being undertaken without a permit;
 - (2) The control plan is not being implemented in a good faith manner; or
 - (3) The conditions of the permit are not being met.
- (b) If the permittee does not cease the activity or comply with the control plan or permit conditions within ten (10) days, the Building Inspector may revoke the permit.
- (c) If the landowner or land user where no permit has been issued does not cease the activity within ten (10) days, the Building Inspector may request the Village Attorney to obtain a cease and desist order.
- (d) The Building Inspector or the Board of Appeals upon appeal may retract the stop-work order or the revocation.
- (e) Ten (to) days after posting a stop-work order, the Building Inspector may issue a notice of intent to the permittee or landowner or land user of the Building Inspector's intent to perform work necessary to comply with this Chapter. The Building Inspector may go on the land and commence the work after fourteen (14) days from issuing the notice of intent. The costs of the work performed by the Building Inspector, plus interest at the rate authorized by the Building Inspector shall be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due, the Village Clerk-Treasurer shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Sec. 66.60(16), Wis. Stats. Any person violating any of the provisions of this Chapter shall be subject to a forfeiture as provided in Section 1-1-6. Each day a violation exists shall constitute a separate offense.
- (f) Compliance with the provisions of this Chapter may also be enforced by injunction.

SEC. 15-2-11 PROHIBITION OF VEHICLE DEBRIS ON PUBLIC WAYS.

- (a) **Declaration of Purpose.** The purpose of this Section is to prevent unsafe conditions on Village streets and to safeguard against air pollution and increased sedimentation and pollution of our lakes and streams.
- (b) **Prohibition.** No person, firm or corporation engaging in activity at a construction site, or operation area in conjunction with the construction activity, shall allow erosion to adjacent land, public streets or bodies of water or the tracking or dropping of dirt or other material by vehicles from the site onto any public street or allow either condition to remain. All persons, firms or corporations engaged in construction or maintenance activity shall be held responsible for any violations of this Section by himself, his agents, employees, subcontractors or haulers of materials or supplies.

SEC. 15-2-12 APPEALS.

- (a) **Appeals.** The Board of Appeals shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Building Inspector in administering this Chapter. Upon appeal, the Board of Appeals may authorize variances from the provisions of this Chapter which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of this Chapter will result in unnecessary hardship. The Board of Appeals shall use the rules, procedures, duties and powers authorized by statute for zoning boards of appeals in hearing and deciding appeals and authorizing variances.
- (b) **Who May Appeal.** Any applicant, permittee, landowner or land user may appeal any order, decision or determination made by the Building Inspector in administering this Chapter.

CHAPTER 3

Grievances Regarding Access to Public Buildings, Programs, Services and Employment by Handicapped Persons

15-3-1 Grievance Procedures Regarding Access to Public Buildings, Programs,
Services and Employment by Handicapped Persons

SEC. 15-3-1 GRIEVANCE PROCEDURES REGARDING ACCESS TO PUBLIC BUILDINGS, PROGRAMS, SERVICES AND EMPLOYMENT BY HANDICAPPED PERSONS.

(a) Statement of Purpose.

- (1) The Village of Spencer, in complying with the Americans with Disabilities Act (ADA), has developed a plan by which access to all Village programs, facilities, services and employment is guaranteed to all citizens. A transition plan has been adopted by the Village Board and is available from the Village Clerk-Treasurer. An ADA Coordinator has been appointed and an ADA Compliance Committee established. Concerns and/or complaints can be addressed to the ADA Coordinator, care of the Village of Spencer Office of Clerk-Treasurer.
- (2) The ADA Coordinator and ADA Compliance Committee shall be annually appointed by the Village President, subject to confirmation by the Village Board, at the Board's organizational meeting. The ADA Compliance Committee shall consist of a minimum of five (5) members, and shall, if possible, have a representative from each of the following fields:
 - a. Business and/or non-profit organization.
 - b. Education.
 - c. Disabled representative.
 - d. Elected official.
 - e. Health/medical.
- (3) Village letterhead and other applicable printed notices should contain the words "An equal opportunity/affirmative action employer."
- (4) An ADA Committee meeting shall be treated as any other Village committee meeting and notice shall be posted a minimum of twenty-four (24) hours prior to the meeting.

(b) Complaint Procedure.

- (1) Complaints shall be filed with the ADA Coordinator, in care of the Village Clerk-Treasurer.
- (2) A complaint shall be filed in writing, contain the name and address of the person filing it, and briefly describe the alleged violation or complaint.
- (3) A complaint should be filed within thirty (30) days after the complainant becomes aware of the alleged problem.
- (4) An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by the ADA Coordinator.

- (5) A written determination as to the validity of the complaint and description of the resolution, if any, shall be issued by the ADA Coordinator and a copy forwarded to the complainant no later than twenty (20) days after its filing.
 - (6) The Village Clerk-Treasurer shall maintain the files and records of the Village relating to the complaints filed.
- (c) **Appeals.**
- (1) If unresolved, the complainant or ADA Coordinator may ask that the complaint be forwarded to the ADA Compliance Committee. The Committee may establish rules to review the complaint and will issue its written decision within thirty (30) days. Review will be conducted in public with a minimum twenty-four (24) hour notice. All proceedings will be transcribed and maintained. The Committee will also review requests or suggestions from disabled persons regarding access to and participation in public facilities, services, activities and functions in the community.
 - (2) If unresolved, the complainant or ADA Coordinator may ask that the complaint be heard by the Village Board and that a determination be made within thirty (30) days of the ADA Compliance Committee's hearing. The decision by the Board shall be final. An open, public meeting of the Village Board shall precede the vote.
- (d) **Other Remedies.** The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other state or federal remedies. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies. However, the Village believes that resolution of the complaint will be more promptly achieved if the Village is able to provide a remedy before the complaint is brought to an external organization.
- (e) **Due Process.** This Section shall be construed to protect the substantive rights of interested persons and to meet appropriate due process standards.

CHAPTER 4

Fair Housing

15-4-1	Statement on Fair Housing
15-4-2	Definitions as Used in This Chapter
15-4-3	Unlawful Practices
15-4-4	Exemptions
15-4-5	Enforcement

SEC. 15-4-1 STATEMENT ON FAIR HOUSING.

It is hereby declared to be the policy of the Village of Spencer to assure equal opportunity to all persons to live in adequate housing facilities regardless of race, color, religion, ancestry, national origin, sex, handicap, sexual preference, marital status of persons maintaining a household, lawful source of income, place of birth, or age, and, to that end, to prohibit discrimination in housing by any persons.

State Law Reference: Sec. 66.432, Wis. Stats.

SEC. 15-4-2 DEFINITIONS AS USED IN THIS CHAPTER.

- (a) **Dwelling.** Any building, structure, or portion thereof which is occupied as, or designed for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction thereof of any such buildings or structure.
- (b) **Family.** One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy and receivers.
- (c) **Real Property.** Buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.
- (d) **Discrimination/Discriminatory Housing Practice.** Any difference in treatment based upon race, color, religion, sex, sexual preference, ancestry, handicap, marital status, place of birth or national origin; or any act that is unlawful under this Chapter.
- (e) **Person.** Individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.
- (f) **Owner.** Lessee, sublessee, co-tenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.
- (g) **Financial Institution.** Any person as defined herein, engaged in the business of lending money or guaranteeing loans.

- (h) **Real Estate Broker /Real Estate Salesman.** Any individual qualified by law, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, rental or lease. of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.
- (i) **Housing Accommodation/Dwelling.** Any building, mobile home or trailer, structure, or. portion thereof which IS occupied as, or designed, or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any real property, as defined herein, used or intended to be used for any of the purposes set forth in this Subsection.
- (j) **Mortgage Broker.** An individual who is engaged in or who performs the business or services of a mortgage broker as defined by Wisconsin Statutes.
- (k) **Open Market.** The market which is informed of the availability for sale, purchase, rental or lease of any housing accommodation, whether informed through a real estate broker or by advertising by publication, signs or by any other advertising methods directed to the public or any portion thereof, indicating that the property is available for sale, purchase, rental or lease.

SEC. 15-4-3 UNLAWFUL PRACTICES.

In connection with any of the transactions set forth in this Section which affect any housing accommodation on the open market, or in connection with any public sale, purchase, rental or lease of any accommodation, it shall be unlawful within the Village for a person, owner, financial institution, real estate broker or real estate salesman, or any representative of the above, to:

- (a) Refuse to sell, purchase, rent or lease, or deny to or withhold any housing accommodation from a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or
- (b) To discriminate against a person in the terms, conditions or privileges of the sale, purchase, rental or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith; or
- (c) To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation from or to a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or
- (d) To refuse to negotiate for the sale, purchase, rental or lease of any housing accommodation to a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

- (e) To represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his race, color, religion, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or
- (f) To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted, or mailed, any notice, statement or advertisement, or to announce a policy or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to make a discrimination; or
- (g) To offer, solicit, accept or use a list of any housing accommodation for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease, or in the furnishing of facilities or services in connection therewith; or
- (h) To induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth in the area to be affected by such sale, purchase, rental or lease will or may result in either:
 - (1) The lowering of property values in the area;
 - (2) An increase in criminal or antisocial behavior in the area; or
 - (3) A decline in the quality of schools serving the area.
- (i) To make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing of any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the Village for the purpose of inducing or attempting to induce any such listing or any of the above transactions; or
- (j) To engage in or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation; or
- (k) To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this Chapter, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this Chapter; or
- (l) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this Charter; or to obstruct or prevent any person from complying with the provisions of this Chapter; or any orders issued thereunder; or
- (m) By canvassing, to commit any unlawful practices prohibited by this Chapter; or
- (n) Otherwise to deny to, or withhold any housing accommodation from, a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

- (o) For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists In whole or in part, in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance because of the race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance which is to be made or given; or
- (p) To deny any qualified person access to or membership or participation in any multiple-listing service, real estate brokers organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in their terms or conditions of such access, membership, or participation, on account of race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth.

SEC. 15-4-4 EXEMPTIONS.

This Chapter shall not apply to:

- (a) A religious organization, association, or society or any nonprofit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy, of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such religion is restricted on account of race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth.
- (b) A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members.
- (c) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale the exemption granted by this Subsection shall apply only with respect to one such sale within any twenty-four (24) month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or served on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at anyone time; provided further, the sale, or rental

of any such single-family house shall be excepted from the application of this Chapter only if such house is sold or rented:

- (1) Without the use of any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and
 - (2) Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United States Code Section 3604; and
 - (3) Without the violation of Section 15-4-3 of this Chapter; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.
- (d) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

SEC. 15-4-5 ENFORCEMENT.

Any person aggrieved by an unlawful practice prohibited by this Chapter may file a complaint with the Village Board within thirty (30) days after the aggrieved person becomes aware of the alleged unlawful practice and in no event more than sixty (60) days after the alleged unlawful practice has occurred. The Village Board or duly authorized representative shall receive each complaint and attempt to resolve each complaint. Failure to achieve a resolution acceptable to both parties and compliance with this Chapter shall cause the Village Board to forward the complaint and findings to appropriate state and federal agencies.

CHAPTER 5

Floodplain

15-5-1	Statutory Authorization, Finding of Fact, Statement of Purpose, Title, and General Provisions
15-5-2	General Standards Applicable to All Floodplain
15-5-3	Floodway District (FW)
15-5-4	Floodfringe District (FF)
15-5-5	General Floodplain District (GFP)
15-5-6	Nonconforming Uses
15-5-7	Administration
15-5-8	Amendments
15-5-9	Enforcement and Penalties
15-5-10	Definitions

SEC. 15-5-1 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE, AND GENERAL PROVISIONS

- (a) **Statutory Authorization.** This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.
- (b) **Finding of Fact.** Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.
- (c) **Statement of Purpose.** This ordinance is intended to regulate floodplain development to:
- (1) Protect life, health and property;
 - (2) Minimize expenditures of public funds for flood control projects;
 - (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
 - (4) Minimize business interruptions and other economic disruptions;
 - (5) Minimize damage to public facilities in the floodplain;
 - (6) Minimize the occurrence of future flood blight areas in the floodplain;
 - (7) Discourage the victimization of unwary land and homebuyers;
 - (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
 - (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
- (d) **Title.** This ordinance shall be known as the Floodplain Zoning Ordinance for Spencer, Wisconsin.
- (e) **General Provisions.**
- (1) Areas to be Regulated. This ordinance regulates all area that would be covered by the regional flood or base flood. Note: Base flood elevations are

derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

- (2) Official Maps & Revisions. The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Village of Spencer Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Clerk, of the Village of Spencer. If more than one map or revision is referenced, the most restrictive information shall apply.

OFFICIAL MAPS:

- a. Flood Insurance Rate Map (FIRM), panel number 0525F, dated November 17, 2008; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated November 17, 2008 number 55073CV000A;
 - b. Flood Boundary and Floodway Map (FBFW), panel number 0525F, dated November 17, 2008;
 - c. Flood Hazard Boundary Map (FHBM), panel number 0525F, dated November 17, 2008;
- Approved by: The DNR and FEMA

- (3) Establishment of Districts. The regional floodplain areas are divided into three districts as follows:
- a. The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
 - b. The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
 - c. The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.
- (4) Locating Floodplain Boundaries. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to sec. 15-5-8. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to sec. 15-5-7(c)(3) and the criteria in (a) and (b) below.
- a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

- b. Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to sec. 15-5-8(a)(6).

- (5) Removal of Lands From Floodplain. Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to sec. 15-5-8.

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

- (6) Compliance. Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.
- (7) Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.
- (8) Abrogation and Greater Restrictions.
 - a. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - b. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
- (9) Interpretation. In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- (10) Warning and Disclaimer of Liability. The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a

cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

- (11) Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- (12) Annexed Areas for Cities and Villages. The Marathon County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.
- (13) General Development Standards. The community shall review all permit applications to determine whether proposed building sites will be reasonable sage from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. 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.

SEC. 15-5-2 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.

(a) Hydraulic and Hydrologic Analyses.

- (1) Except as allowed in par. (3) below, no floodplain development shall:
 - a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 - b. Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or

more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.

- (3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with sec. 15-5-8.

Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

- (b) **Watercourse Alterations.** No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA or the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.
- (c) **Chapter 30, 31, Wis. Stats., Development.** Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to sec. 15-5-8.
- (d) **Public or Private Campgrounds.** Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
 - (1) The campground is approved by the Department of Health and Family Services.
 - (2) A land use permit for the campground is issued by the zoning administrator.
 - (3) The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
 - (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
 - (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated – by the officials identified in sub. (4) – to remain in compliance with all applicable regulations, including those

of the state department of health and family services and all other applicable regulations.

- (6) Only camping units are allowed.
- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either sec. 15-5-3 or sec. 15-5-4 for the floodplain district in which the structure is located.
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

SEC. 15-5-3 FLOODWAY DISTRICT (FW)

- (a) **Applicability.** This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to sec. 15-5-5(d).
- (b) **Permitted Uses.** The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if
 - they are not prohibited by any other ordinance;
 - they meet the standards in sec. 15-5-3(c) and 15-5-3(d); and
 - all permits or certificates have been issued according to sec. 15-5-7(a):
 - (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of sec. 15-5-3(c)(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with sec. 15-5-3 or 15-5-4.
 - (5) Extraction of sand, gravel or other materials that comply with sec. 15-5-3(c)(4).

- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
- (7) Public utilities, streets and bridges that comply with sec. 15-5-3(c)(3).
- (c) **Standards for Developments in Floodway Areas.**
 - (1) General.
 - a. Any development in floodway areas shall comply with sec. 15-5-2 and have a low flood damage potential.
 - b. Applicants shall provide the following data to determine the effects of the proposal according to sec. 15-5-2(a):
 - 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - 2. An analysis calculating the effects of this proposal on regional flood height.
 - c. The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for b. above.
 - (2) Structures. Structures accessory to permanent open spaces uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - a. The structure is not designed for human habitation and does not have a high flood damage potential.
 - b. It must be anchored to resist flotation, collapse, and lateral movement;
 - c. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
 - d. It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
 - (3) Public Utilities, Streets and Bridges. Public utilities, streets and bridges may be allowed by permit, if:
 - a. Adequate floodproofing measures are provided to the flood protection elevation; and
 - b. Construction meets the development standards of sec. 15-5-2(a).
 - (4) Fills or Deposition of Materials. Fills or deposition of materials may be allowed by permit, if:
 - a. The requirements of sec. 15-5-2(a) are met;
 - b. No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirement of this section are met;
 - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - d. The fill is not classified as a solid or hazardous material.
- (d) **Prohibited Uses.** All uses not listed as permitted uses in sec. 15-5-3(b) are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

SEC. 15-5-4 FLOODFRINGE DISTRICT (FF)

- (a) **Applicability.** This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to sec. 15-5-5(d).
- (b) **Permitted Uses.** Any structure, land use, or development is allowed in the floodfringe district if the standards in sec. 15-5-4(c) are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in sec. 15-5-7(a) have been issued.
- (c) **Standards for Development in Floodfringe Areas.** Sec. 15-5-2(a) shall apply in addition to the following requirements according to the use requested.
 - (1) Residential Uses. Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the flood fringe area, shall meet or exceed the following standards;
 - a. The elevation of the lowest floor, excluding the basement or crawl way, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
 - b. The basement or crawl way floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
 - c. Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).
 - d. In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new

development and substantial improvements where access roads are at or below the regional flood elevation, if:

1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(2) Accessory Structures or Uses.

- a. Except as provided in par.(b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
- b. An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of Sections 15-5-3(c)(2)a.,b.,c. and d. and 15-5-4(c)(5) below.

(3) Commercial Uses. Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of sec. 15-5-4(c)(1). Subject to the requirements of sec. 15-5-4(c)(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) Manufacturing and Industrial Uses. Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in sec. 15-5-7(e). Subject to the requirements of sec. 15-5-4(c)(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate-warning system exists to protect life and property.

(5) Storage of Materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or flood proofed in compliance with s. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) Public Utilities, Streets and Bridges. All utilities, streets and bridges shall be designated to be compatible with comprehensive floodplain development plans; and

- a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with sec. 15-5-7(e) to the flood protection elevation;
- b. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

- (7) Sewage Systems. All on-site sewage disposal systems shall be floodproofed, pursuant to sec. 15-5-7(e), to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (8) Wells. All wells shall be floodproofed, pursuant to sec. 15-5-7(5), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (9) Solid Waste Disposal Sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (10) Deposition of Materials. Any deposited material must meet all the provisions of this ordinance.
- (11) Manufactured Homes.
 - a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - 1. have the lowest floor elevated to the flood protection elevation; and
 - 2. be anchored so they do not float, collapse or move laterally during a flood
 - c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in sec. 15-5-4(c)(1).
- (12) Mobile Recreational Vehicles. All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in sec. 15-5-4(c)(11)b. and c. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

SEC. 15-5-5 GENERAL FLOODPLAIN DISTRICT (GFP).

- (a) **Applicability**. The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.
- (b) **Permitted Uses**. Pursuant to sec. 15-5-5(d), it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (sec. 15-5-3(b)) and floodfringe areas (sec. 15-5-4(b)) are allowed within the general floodplain district, according to the standards of sec. 15-5-5(c), provided that all permits or certificates required under sec. 15-5-7(a) have been issued.

- (c) **Standards for Development in the General Floodplain District.** Sec. 15-5-3 applies to floodway areas, sec. 15-5-4 applies to floodfringe areas. The rest of this ordinance applies to either district.
- (d) **Determining Floodway and Floodfringe Limits.** Upon receiving an application for development within the general floodplain district, the zoning administrator shall:
- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
 - (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine flood way boundaries:
 - a. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - c. Profile showing the slope of the bottom of the channel or flow line of the stream;
 - d. Specifications for building construction and materials floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
 - (3) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of sec. 15-5-7(a)(2)c. apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

SEC. 15-5-6 NONCONFORMING USES

- (a) **General.**
- (1) Applicability. If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.
 - (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue .subject to the following conditions:

- a. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- b. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- c. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- d. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with sec. 15-5-4(c)(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- e.
 - 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
 - 2. For nonconforming buildings that are damaged or destroyed by a non flood disaster, the repair or reconstruction of any such nonconforming

building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

- f. A nonconforming historic structure maybe altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with sec. 15-5-3(c)(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with sec. 15-5-7(e) are used.

(b) Floodway Areas.

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - a. Has been granted a permit or variance which meets all ordinance requirements;
 - b. Meets the requirements of sec. 15-5-6(a);
 - c. Will not increase the obstruction to flood flows or regional flood height;
 - d. Any addition to the existing structure shall be floodproofed, pursuant to sec. 15-5-7(e), by means other than the use of fill, to the flood protection elevation;
 - e. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 4. The use must be limited to parking or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

(c) Floodfringe Areas.

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in sec. 15-5-4(c), except where sec. 15-5-6(c)(2) is applicable.
- (2) Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in sec. 15-5-7(c), may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - a. No floor is allowed below the regional flood elevation for residential or commercial structures;
 - b. Human lives are not endangered;
 - c. Public facilities, such as water or sewer, will not be installed;
 - d. Flood depths will not exceed two feet;
 - e. Flood velocities will not exceed two feet per second; and
 - f. The structure will not be used for storage of materials as described in sec. 15-5-4(c)(6).
- (3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
 - a. Meets all other regulations and will be granted by permit or variance;
 - b. Does not exceed 60 square feet in area; and
 - c. In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM83, Wis. Adm. Code.
- (5) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

SEC. 15-5-7 ADMINISTRATION

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

(a) Zoning Administrator.

- (1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- a. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - b. Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
 - bm. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - c. Keep records of all official actions such as:
 - 1. All permits issued, inspections made, and work approved;
 - 2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - 3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - 4. All substantial damage assessment reports for floodplain structures.
 - d. Submit copies of the following items to the Department Regional office:
 - 1. Within 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 any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
 - 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
 - e. Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
 - f. Submit copies of text and map amendments and biennial reports to the FEMA Regional office.
- (2) Land Use Permit. A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:
- a. General Information
 - 1. Name and address of the applicant, property owner and contractor;
 - 2. Legal description, proposed use, and whether it is new construction or a modification;
 - b. Site Development Plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:
 - 1. Location, dimensions, area and elevation of the lot;
 - 2. Location of the ordinary highwater mark of any abutting navigable waterways;
 - 3. Location of any structures with distances measured from the lot lines and street center lines;
 - 4. Location of any existing or proposed on-site sewage systems or private water supply systems;

5. Location and elevation of existing or future access roads;
 6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
 7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 8. 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 sec. 15-5-3 or 15-5-4 are met; and
 9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to sec. 15-5-2(a). This may include any of the information noted in sec. 15-5-3(c)(1).
- c. Data Requirements to Analyze Developments.
1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
 - (a) An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
 - (b) A map showing location and details of vehicular access to lands outside the floodplain; and
 - (c) A surface drainage plan showing how flood damage will be minimized.The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.
- d. Expiration. All permits issued under the authority of this ordinance shall expire 365 days after issuance.
- (3) Certificate of Compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
- a. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
 - b. Application for such certificate shall be concurrent with the application for a permit;
 - c. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

- d. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of sec. 15-5-7(e).
- (4) Other Permits. The applicant must secure all necessary permits from federal, state, and local agencies, including those 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.
- (b) **Zoning Agency.**
 - (1) The Planning Commission shall:
 - a. oversee the functions of the office of the zoning administrator; and
 - b. review and advise the Governing body on all proposed amendments to this ordinance, maps and text.
 - (2) This zoning agency shall not
 - a. grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
 - b. amend the text or zoning maps in place of official action by the Governing body.
- (c) **Board of Adjustment/Appeals.** The Board of Adjustment/Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.
 - (1) Powers and Duties. The Board of Adjustment/Appeals shall:
 - a. Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
 - b. Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
 - c. Variances - Hear and decide, upon appeal, variances from the ordinance standards.
 - (2) Appeals to the Board.
 - a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
 - b. NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES
 - 1. Notice – The board shall:

- (a) Fix a reasonable time for the hearing;
 - (b) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
 - (c) Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
- 2. Hearing – Any party may appear in person or by agent. The board shall:
 - (a) Resolve boundary disputes according to sec. 15-5-7(c)(3).
 - (b) Decide variance applications according to sec. 15-5-7(c)(4).
 - (c) Decide appeals of permit denials according to sec. 15-5-7(d).
- c. DECISION: The final decision regarding the appeal or variance application shall:
 - 1. Be made within a reasonable time;
 - 2. Be sent to the Department Regional office within 10 days of the decision;
 - 3. Be a written determination signed by the chairman or secretary of the Board;
 - 4. State the specific facts which are the basis for the Board's decision;
 - 5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
 - 6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.
- (3) Boundary Disputes. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:
 - a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
 - c. If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to sec. 15-5-8.
- (4) Variance.
 - a. The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - 1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 - 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - 3. The variance is not contrary to the public interest; and

4. The variance is consistent with the purpose of this ordinance in sec. 15-5-1(c).
 - b. In addition to the criteria in a., to qualify for a variance under FEMA regulations, the following criteria must be met:
 1. The variance may not cause any increase in the regional flood elevation;
 2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
 - c. A variance shall not:
 1. Grant, extend or increase any use prohibited in the zoning district.
 2. Be granted for a hardship based solely on an economic gain or loss.
 3. Be granted for a hardship which is self-created.
 4. Damage the rights or property values of other persons in the area.
 5. Allow actions without the amendments to this ordinance or map(s) required in sec. 15-5-8(a).
 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as a historic structure.
 - d. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.
- (d) To Review Appeals of Permit Denials.**
- (1) The Zoning Agency (sec. 15-5-7(b)) or Board shall review all data related to the appeal. This may include:
 - a. Permit application data listed in sec. 15-5-7(a)(2).
 - b. Floodway/floodfringe determination data in sec. 15-5-5(d).
 - c. Data listed in sec. 15-5-3(c)(1)b. where the applicant has not submitted this information to the zoning administrator.
 - d. Other data submitted with the application, or submitted to the Board with the appeal.
 - (2) For appeals of all denied permits the Board shall:
 - a. Follow the procedures of sec. 15-5-7(c).
 - b. Consider zoning agency recommendations; and
 - c. Either uphold the denial or grant the appeal.
 - (3) For appeals concerning increases in regional flood elevation the Board shall:
 - a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

- b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
- (e) **Floodproofing.**
- (1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the flood proofing measures will protect the structure or development to the flood protection elevation.
 - (2) Floodproofing measures shall be designed to:
 - a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - b. Protect structures to the flood protection elevation;
 - c. Anchor structures to foundations to resist flotation and lateral movement; and
 - d. Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
 - (3) Floodproofing measures could include:
 - a. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or
 - b. Adding mass or weight to prevent flotation.
 - c. Placing essential utilities above the flood protection elevation.
 - d. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
 - e. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
 - f. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.
- (f) **Public Information.**
- (1) Place marks on structures to show the depth of inundation during the regional flood.
 - (2) All maps, engineering data and regulations shall be available and widely distributed.
 - (3) All real estate transfers should show what floodplain zoning district any real property is in.

SEC. 15-5-8 AMENDMENTS

- (a) **General.** The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:
 - (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
 - (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.

- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
 - (4) Any fill or flood plain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
 - (5) Any upgrade to a floodplain zoning ordinance text require by s. NR 116.05, Wis. Adm. Code, or otherwise required by law or for changes by the municipality.
 - (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
- (b) **Procedures.** Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by secs. 15-5-5(d) and 15-5-7(a)(2).
- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
 - (2) No amendments shall become effective until reviewed and approved by the Department.
 - (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
 - (4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See sec. 15-5-1(e)(4).)

SEC 15-5-9 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$100 and not more than \$1000, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

SEC. 15-5-10 DEFINITIONS

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

- (1) "A ZONES" – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2) "ACCESSORY STRUCTURE OR USE" – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- (3) "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- (4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- (5) "BUILDING" - See STRUCTURE.
- (6) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- (7) "CAMPGROUND" - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- (8) "CAMPING UNIT" - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.
- (9) "CERTIFICATE OF COMPLIANCE" - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
- (10) "CHANNEL" - A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (11) "CRAWLWAYS " OR "CRAWL SPACE"- An enclosed area below the first usable floor of a building, generally .less than five feet in height, used for access to plumbing and electrical utilities.
- (12) "DECK" --- An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation,
- (13) "DEPARTMENT" -The Wisconsin Department of Natural Resources.
- (14) "DEVELOPMENT" -Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to

buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

- (15) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- (16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- (17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads
- (18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- (19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- (20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- (21) "FLOOD" or "FLOODING" - A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - The overflow or rise of inland waters,
 - The rapid accumulation or runoff of surface waters from any source,
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
 - The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (22) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

- (23) "FLOODFRINGE"- That portion of the floodplain outside of the flood way which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- (24) "FLOOD HAZARD BOUNDARY MAP" – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- (25) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- (26) "FLOODPLAIN" - Land which has been or maybe covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- (27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (29) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (30) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- (31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional-flood. (Also see: FREEBOARD.)
- (32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (34) "FREEBOARD" – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and

floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

- (35) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- (36) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (37) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- (38) "HISTORIC STRUCTURE" - Any structure that is either:
 - Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
 - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
 - Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- (39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- (40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- (41) "MANUFACTURED HOME" - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- (42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if

registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

- (43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- (44) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1988 adjustment
- (45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM"- Elevations referenced to mean sea level datum, 1929 adjustment
- (46) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (47) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- (48) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies, (Such as a residence in the floodway.)
- (49) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- (50) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in sec. 15-5-1(e)(2), which has been approved by the Department and FEMA.
- (51) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- (52) "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

- (53) "PERSON"- An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (54) "PRIVATE SEWAGE SYSTEM"- A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (55) "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (56) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (57) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (58) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (59) "STRUCTURE" – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (60) "SUBDIVISION"- Has the meaning given in s. 236.02(12), Wis. Stats.
- (61) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

- (62) "UNNECESSARY HARDSHIP" Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- (63) "VARIANCE" - An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- (64) "VIOLATION" -The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- (65) "WATERSHED" The entire region contributing runoff or surface water to a watercourse or body of water.
- (66) "WATER SURFACEPROFILE"- A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- (67) "WELL"- means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.