

TITLE 15

Building Code

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Title 15 ▶ Chapter 1

Building, Plumbing, Electrical, and Heating and Ventilation 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 Wheeler" 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; Applicability; Statutory Authority.**
 - (1) **Scope.** New buildings hereafter erected in, or any building hereafter moved within or into the Village of Wheeler, shall conform to all the requirements of this Chapter except as they are herein specifically exempted from part or all of its provisions. Any

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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. 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 of Wheeler and amendments thereto to the date this Chapter was adopted and in no way supersede or nullify such laws and the said Zoning Code.

- (2) **Applicability.** This Building Code applies to all dwellings, commercial buildings/structures, swimming pools, garages, structures, buildings and accessory buildings. Not included are children's play structures and agricultural buildings on agricultural zoned parcels.
- (3) **Statutory Authority.** These regulations are adopted under the authority granted by Sec. 101.65, Wis. Stats.
- (d) **Village Building Code Positions.** The Village Board may elect that this Chapter may be administered by two (2) different Village of Wheeler authorities:
 - (1) **UDC Administration.** Construction requiring inspection by a Wisconsin Uniform Dwelling Code (UDC) certified building inspector.
 - (2) **Non-UDC Administration.** Construction not required by state law or this Chapter to be inspected by a UDC-certified building inspector, permits for which may be issued by another Village-designated official.

Sec. 15-1-2 Building Permits and Inspection.

- (a) **Permit Required.**
 - (1) **General Permit Requirements.** No building of any kind shall be moved within or into the Village of Wheeler 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/her authorized agent, from the Building Inspector, or his/her designee, in the case of UDC projects requiring plan review and inspections or lesser projects requiring issuance of just a non-UDC administrative building permit to assist in documenting changes to properties and their valuations.
 - (2) **Resident/a/ Administrative Building Permit.** If the Village Board elects, per Section 15-1-1(d), to have a Village official or employee other than a UDC-certified Building Inspector issue administrative building permit for non-UDC projects, an administrative building permit may be issued and is required for any non-structural work with a value of One Thousand Dollars (\$1,000.00 - market value of material and labor) or more unless a Uniform Dwelling Code (UDC) building permit is issued. If the

Village Board does not elect to use such a system, all building permits shall be administered by the Building Inspector. The following are examples of projects requiring an administrative building permit if structural changes are involved in the case of a residence:

- a. New roofing.
 - b. New siding.
 - c. New windows.
 - d. Sheds over one hundred (100) square feet.
- (3) **Residential UDC Building Permit.** A UDC building permit with inspections is required if a person structurally alters a residential building. If a person moves a building within or into the Village of Wheeler, or builds, installs, or assembles a building within the scope of this Chapter, he/she shall first obtain a building permit for such work from the Building Inspector. Any structural changes or major changes to mechanical systems that involve extensions of such systems shall require permits. An electric service upgrade or installation of a new electrical panel requires a permit, regardless of cost.
- (4) **Commercial Building Permit.** A building permit is required for all new construction, alterations or additions of commercial buildings or building mechanical systems.
- (b) **Exceptions to Building Permit Requirements.**
- (1) **Minor Repairs.** The Building Inspector may authorize minor repairs or alterations without a permit that do not change the occupancy, use, area, structural strength, room arrangement, fire protection, access to or efficiency of any existing stairways or exits, light or ventilation of the building.
 - (2) **Cabinetry.** Repair, refinishing or replacement of interior surfaces and installation of cabinetry shall be exempt from permit requirements.
 - (3) **Restoration.** Restoration or repair of an installation to its previous Code-compliant condition as determined by the Building Inspector is exempt from permit requirements.
 - (4) **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 exist 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) **Application; Appropriate Application/Inspection Official.** Application for a building permit shall be made in writing upon a form furnished by the Village, its Building Inspector or designee and shall state the name and address of the owner of the land and also the owner of the building if different, contact information (email address and fax, telephone and cellphone numbers), 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 or designee may require. Applications for new one- and two-family residences and additions to existing structures shall be submitted to the UDC-certified Building Inspector or designee. All other applications for building permits shall be to the Village's Non-UDC Official or designee.
- (d) **Submission of Plans.**
- (1) **Basic Application Information.** Two (2) sets of building plans shall be submitted to the Building Inspector or designee for any work which expands the size of a building, involves a new building, or as required by the Building Inspector. If a new building or building addition is proposed, then a plot plan showing such proposed work and existing buildings and property lines shall be submitted. A third set of plans may be requested at the discretion of the Building Inspector for the Assessor. The Building Inspector may require the owner or contractor to submit plans for any construction, building moving, or demolition project when the Building Inspector determines that it is necessary to review such plans to assure that the proposed project will comply with all applicable codes.
 - (2) **Erosion Control Plan.** 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 shall also be filed if needed for the project.
 - (3) **Scale.** 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].
 - (4) **Filing of Plans.** 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 (Commercial) Building Code shall bear the stamp of approval of the Wisconsin Department of Safety and Professional Services. 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.
 - (5) **Additional UDC Requirements.** Plans for all new one (1) and two (2) family dwellings shall comply with the provisions of Chapter SPS 320.09, Wis. Adm. Code.
 - (6) **Foundation Elevation and Location Confirmation.** The Village shall issue its preliminary building permit as a result of the above submittals, subject, however, to

the owner confirming the actual elevations and location of the foundation once it is installed. No further construction work can be completed on the new building until submission of a recertification of the foundation elevations and location, confirming that the foundation elevations and location conform with the original permit and application regulations.

- (e) **Permit Issuance - New Non-UDC Projects.** If the Building Inspector or designee in the case of non-UDC projects determines that the building will comply with all applicable ordinances of the Village and all applicable laws and orders of the State of Wisconsin, the Building Inspector or his/her designee (or Non-UDC administrative official) may 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 or designee.
- (f) **Approval of Plans; Permit Issuance for UDC Projects.**
- (1) **Preliminary Foundation Permit.** The Building Inspector shall issue the requested building permit for UDC projects as a preliminary permit to construct the foundation if the owner or contractor demonstrates that all state, county and local submission requirements are satisfied. If a permit card is issued, it shall be posted at the job site in a visible location from the street. A preliminary permit is valid for six (6) months. A preliminary permit may be extended for a specific time frame upon the Building Inspector's approval and payment of appropriate fees.
 - (2) **Recertification; Final Building Permit Issuance.** Upon completion of the foundation, the owner or contractor shall submit data identifying setbacks and elevations. Said information shall be submitted to the Building Inspector who shall review it to determine that local setback and elevation requirements are satisfied. If the existing foundation conforms to the local requirements, a final building permit shall be issued and it shall be posted at the job site in a visible location from the street. A final building permit may be extended for a specific time frame upon the Building Inspector's approval and payment of appropriate fees.
 - (3) **Right of Inspection Access.** By accepting a permit, the applicant, owner or contractor grants the Building Inspector the right of access to the real estate on which the permitted construction or demolition will occur.
 - (4) **Building Permits Conditioned Upon Compliance with Codes.** All permits are issued conditionally on the condition that the owner and/or contractor(s) shall conform to the requirements of all applicable building codes, zoning ordinances and setback requirements on constructing the 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.

- (5) **Partial Building Permit.** In case adequate plans are presented for only a part of a UDC-classified building, the Building Inspector, at his/her discretion, may issue a permit for only that part of the building before receiving the plans and specifications for the entire building.
- (g) **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, unless the Village Board has permitted the use of a private road.
- (h) **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 connection 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.
- (i) **Waiver of Plans; Minor Repairs.**
 - (1) **Waiver.** If the Building Inspector finds that the character of the work is sufficiently described in the application and involves structural work, he/she may waive the filing of plans for alterations, repairs or moving, provided the cost of such work does not exceed Two Thousand Five Hundred Dollars (\$2,500.00).
 - (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 Two Thousand Five Hundred Dollars (\$2,500.00), as determined by the Village 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.
- U) **Inspections.**
 - (1) The following UDC inspections shall be requested forty-eight (48) hours (business work days) in advance by the applicant/contractor or property owner as applicable:
 - a. Footing/foundation.
 - b. Rough carpentry, HVAC, electric and plumbing.
 - c. Draitile/basement floor.
 - d. Underfloor plumbing/electric service.

- e. Insulation.
 - f. Final carpentry, HVAC, electric and plumbing.
 - g. Erosion control.
- (2) Failure to request any inspection will be the responsibility of the contractor and/or property owner.
 - (3) Buildings shall be inspected at such times and in such manner as may be necessary to insure compliance with the laws, codes, ordinances, rules and orders applicable thereto.
 - (4) Electrical, plumbing or HVAC installations shall not be enclosed nor any structural portion of any building or structure be covered or concealed prior to completion of required inspections and approval by the Building Inspector.
 - (5) After approval is granted by the Building Inspector, no portion of any work covered by the inspection or included in such approval shall be altered or changed, except as specifically authorized by the Building Inspector.
 - (6) The provisions and regulations of SPS 320.10, Wis. Adm. Code, with regard to inspections of one (1) or two (2) family dwellings are hereby made a part of this Chapter.
 - (7) The permit applicant or an authorized representative shall request inspections after each phase of construction is completed. However, construction may proceed if the inspection has not taken place by the end of the second business day following the day of notification or as otherwise agreed between the applicant and the Building Inspector.
- (k) **Inspection Warrants.** If the Building Inspector is denied access to inspect a property, he/she may request the Village Attorney to seek an inspection warrant pursuant to Sec. 66.0119, Wis. Stats.
 - (l) **Payment of Fees.** All fees shall be paid to the Village Clerk-Treasurer. Upon presentation of the Clerk-Treasurer's receipt showing that the fees prescribed by this Chapter have been paid, the Inspector or his/her designee, upon entering upon the application the number of the receipt, shall issue to the owner, or his/her agent, a building permit.
 - (m) **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 twenty-four (24) months from the date of issuance thereof. Building permits for new one (1) or two (2) family dwellings shall expire two (2) years from the date of issuance thereof. Projects with expired permits and without an occupancy permit must be renewed.
 - (n) **Revocation of Permits.**
 - (1) **Grounds for Revocation.** The Building Inspector or the Village Board may revoke any building, plumbing or electrical permit, HVAC construction or installation, 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/her.
 - 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) **Permit Revocation.** 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/her agent, if any, and on the person having charge of construction.
 - (3) **Permit Revocation Placard.** A revocation placard shall also be posted upon the building, structure, equipment or premises in question by the Building Inspector.
 - (4) **Construction Unlawful Following Permit Revocation.** 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/she may require for the preservation of life and safety.
- (o) **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.
 - (p) **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.
 - (q) **Change of Use Occupancy Permit.** It shall be unlawful to change the use of any building, structure or premises without first obtaining from the Building Inspector an approval of such change in the occupancy or use and a certificate of occupancy.

Sec. 15-1-3 State Uniform Dwelling Code Adopted.

(a) **Adoption of Codes.**

- (1) **Wisconsin Administrative Codes Adopted.** The following Wisconsin Administrative Codes and subsequent revisions pertaining to construction activity are adopted by reference for municipal enforcement and incorporated herein:

SPS 316	Electrical Code
SPS 320-325	Uniform Dwelling Code
SPS 326	Manufactured Home Communities
SPS 360-366	Commercial Building, Energy Conservation, and Heating, Ventilating and Air Conditioning Code
SPS 367	Rental Unit Energy Efficiency
SPS 375-379	Buildings Constructed Prior to 1914
SPS 381-387	Uniform Plumbing Code

- (2) **Commercial and Pre-1914 Buildings Codes.** Chapters SPS 360 through SPS 366, Wis. Adm. Code (Wisconsin State Commercial Building Code), and SPS 375-379, Wis. Adm. Code (Existing Pre-1914 Buildings 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 Wisconsin Administrative Code provisions incorporated herein are intended to be made a part of this Code. A copy of said Wisconsin Administrative Code provisions and amendments thereto shall be kept with the Building Inspector.
- (3) **Adoption of Additional Codes.** By virtue of adopting SPS 361.05, Wis. Adm. Code, the following codes are also adopted and incorporated by reference:
- IBC.** The *International Building Code*®, subject to the modifications specified in SPS 361-362, Wis. Adm. Code.
 - IECC.** The *International Energy Conservation Code*®, subject to the modifications specified in SPS 363, Wis. Adm. Code.
 - IMC.** The *International Mechanical Code*®, subject to the modifications specified in SPS 364, Wis. Adm. Code.
 - IFGC.** The *International Fuel Gas Code*®, subject to the modifications specified in SPS 365, Wis. Adm. Code.
- (4) **Violations; Amendments.** Any act required to be performed or prohibited by a Wisconsin Administrative Code provision incorporated herein by reference is required or prohibited by this Chapter. Any future amendments, revisions or modifications of the Wisconsin 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 the Village of Wheeler. A copy of these administrative code provisions and any future amendments shall be kept on file in the Building Inspector's Office.

- (b) **Scope of Uniform Dwelling Code Expanded.** For the purposes of this Chapter, the provisions of the Wisconsin Uniform Dwelling Code are the standards for construction of the following:
- (1) **Additions.** Additions, alterations and major equipment replacements for one and two family dwellings built prior to June 1, 1980.
 - (2) **Detached Garages.** New construction detached garages shall comply with the following standards: Detached garages greater than two hundred (200) square feet serving one and two family dwellings. Grade beam slabs are required for private, residential garages with a continuous floating slab of reinforced concrete and shall not be less than four (4) inches in thickness. Reinforcement shall be a minimum of six by six (6 x 6) inch, number ten (10) wire mesh. The slab shall be provided with a thickened edge all around, eight (8) inches wide and eight (8) inches below the top of the slab. (Exempted are "frost free footings" for detached residential accessory buildings) SPS 322, Wis. Adm. Code, shall not apply.
 - (3) **Other Detached Accessory Buildings.** Concrete slabs, frost free footings, etc. are not required, but if they are installed they shall follow Subsection (b)(2) above and/or SPS 321, Wis. Adm. Code.
- (c) **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 thirty-five percent (35%) 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.
- (d) **Definitions.** The following definitions shall be applicable in this Chapter:
- (1) **Addition.** New construction performed on a dwelling which increases the outside dimensions of the dwelling.
 - (2) **Alteration.** A substantial change or modification other than an addition or minor repair to a dwelling or to systems involved within a dwelling.

- (3) **Building Inspector.** The State-certified inspector who performs UDC inspections in the Village of Wheeler. For purposes of this Chapter, the title shall also include the official performing plumbing, electrical and HVAC plan reviews and inspections.
- (4) **Department.** The Wisconsin Department of Safety and Professional Services.
- (5) **Dwelling.**
 - 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.
- (6) **Minor Repair.** A 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.
- (7) **One (1) or Two (2) Family Dwelling.** 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.
- (8) **Person.** An individual, partnership, firm or corporation.
- (9) **Uniform Dwelling Code (UDC).** Those Administrative Code provisions and any future amendments, revisions or modifications thereto, contained in the following chapters of the Wisconsin Administrative Code:

SPS 320	Administration and Enforcement
SPS 321	Construction Standards
SPS 322	Energy Conservation
SPS 323	Heating, Ventilating and Air Conditioning
SPS 324	Electrical Standards
SPS 325	Plumbing

(e) **Method of Enforcement.**

- (1) **Certified Inspector to Enforce.** The Building Inspector and his/her 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 Wisconsin Department of Safety and Professional Services in each of the categories specified under SPS 326.10, 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/her agent while in performance of his/her duties.
- (5) **Records.** The Building Inspector shall perform all administrative tasks required by the State under the Uniform Dwelling Code. In addition, the Building Inspector shall keep a record of all applications for building permits in a book for such purposes 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 Commercial Building Code Adopted.** Chapters SPS 360 through SPS 366, Wis. Adm. Code (Wisconsin State Commercial 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. SPS 360-366, Wis. Adm. Code, incorporated herein are intended to be made a part of this Code. A copy of said Wisconsin Administrative Codes and amendments thereto shall be kept on file with the Village Building Inspector.
- (b) **State Plumbing Code Adopted.** The provisions and regulations of Ch. 145, Wis. Stats., and Chs. H 81, H 82, H 83 and SPS 325, Wis. Adm. Code, 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 of Wheeler. 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) SPS 324, Wis. Adm. Code, and the currently adopted version of the National Electric Code, are 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 (c)(1) above.

- (d) **Conflicts.** If, in the opinion of the Building Inspector, the provisions of the State Commercial Building Code adopted by Subsection (a) of this Section and/or the Uniform Dwelling Code adopted in Section 15-1-3, shall conflict with the provisions of the Federal Housing Administration standards in their application to any proposed building or structure, the Inspector and 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 New Methods and Materials.

- (a) **Approval Requirements for New Methods and Materials.** 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 Wisconsin Department of Safety and Professional Services 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) **Manufacturer's Installation Requirements.** 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 Wisconsin Department of Safety and Professional Services. The data, test and other evidence necessary to prove the merits of such material, method of construction or device shall be determined by the Wisconsin Department of Safety and Professional Services.

Sec. 15-1-6 Unsafe Buildings.

- (a) **Determination; Order.** Whenever the Building Inspector or Village Board find any building or part thereof within the Village of Wheeler 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 Secs. 66.0413 and 823.21, Wis. Stats.
- (b) **Alterations or Repair When Not Permitted.** When any existing building or structure which, for any reason whatsoever, does not conform to the regulations of this Chapter or other municipal ordinances of the Village of Wheeler, has deteriorated from any cause whatsoever to the extent that it is considered a menace to public safety and welfare, the Village Board may order that such building or structure be vacated and thereafter demolished and debris removed from the premises.

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- (c) **Extention of Deterioriation.** The Village Board and its professional consultants shall determine the amount and extent of deterioration of any existing building or structure.

Sec. 15-1-7 Disclaimer on Inspections.

The purpose of the inspections under this Chapter is to improve the quality of housing in the Village of Wheeler. 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. 15-1-8 Garages.

- (a) **Construction Standards.** Private garages in districts zoned residential shall be built in accordance with the general construction standards established in the Wisconsin Uniform Dwelling Code. Slab construction for detached garages of less than six hundred (600) square feet in area shall have a thickened edge of a minimum of twelve (12) inches wide at the base and eight (8) inches thick with two (2) continuous #4 reinforcing rods in the perimeter or be designed through structural analysis. Slab construction for detached garages of between six hundred one (601) and one thousand (1,000) square feet in area shall have a thickened edge of a minimum of sixteen (16) inches wide at the base and twelve (12) inches thick with four (4) continuous #4 reinforcing rods in the perimeter or be designed through structural analysis. Detached garage slabs larger than one thousand (1,000) square feet shall be designed through structural analysis. Private garages or structures in districts zoned commercial or industrial shall be constructed as a commercial building.
- (b) **Pole Buildings.** Pole buildings shall be designed through structural analysis to meet the design standards of the zoning district in which it is located. These design standards may also include architectural appearance standards in some zoning districts.

Sec. 15-1-9 Regulation and Permit for Razing Buildings.

- (a) **Demolition Permit Required.** All persons who demolish or cause to be demolished any structure or part of a structure larger than four hundred (400) square feet within the Village

of Wheeler shall apply for and obtain a demolition permit from the building inspection prior to undertaking any steps to demolish the structure.

- (b) **Application.** An application for a permit to demolish all or part of a building shall include the following information:
- (1) The name and address of the owner of the building on date of application and, if different, on date of demolition;
 - (2) The name, address and telephone number of the contractor(s) performing the demolition work;
 - (3) The date upon which demolition is to commence;
 - (4) The date by which demolition shall be complete;
 - (5) A list of all hazardous waste and hazardous and toxic substances (as defined by NR 181.12 and 158.03(4), Wis. Adm. Code as amended from time to time) contained in the building, a statement as to whether the building contains asbestos [as defined by Sec. 140.04(1)(a), Wis. Stats.], and a detailed description of the method to be used in removing, transporting and disposing of any hazardous waste, hazardous and toxic substances, and asbestos;
 - (6) A detailed description of how and where the waste materials resulting from the demolition will be transported and disposed of (including the description of the route to be used by trucks in hauling the waste);
 - (7) A description of the method of demolition to be used; and
 - (8) A description in detail of all methods to be used to prevent water runoff and soil erosion from the site to neighboring properties and to prevent releasing unreasonable amounts of dust from the site;
 - (9) Along with the application for permit for demolition, the applicant shall present a release from all utilities serving the property, stating that their respective service connections and appurtenant equipment such as meters and regulators have been removed or sealed and plugged in a safe manner.
- (c) **Demolition.** The demolition shall be conducted in a manner that is safe and that does not adversely affect the environment.
- (d) **Clearing and Leveling the Site.**
- (1) The site of any demolition shall be properly cleared of debris, rubbish and pavement and shall be properly graded and leveled to conform with the adjoining grade of the neighboring property; and when so graded and leveled, the site shall be seeded, sodded or treated in same other manner acceptable to the Building Inspector so as to prevent blowing dust, dirt, or sand. Excavations remaining after demolition shall be filled, graded and leveled off, not later than thirty (30) consecutive days after demolition is completed.
 - (2) Excavations from demolished buildings or structures shall not be filled with any materials subject to deterioration. The Building Inspector, upon notification by the permit holder, the owner or his/her agent, in writing and upon forms provided by the

Building Inspector for that purpose, shall within seventy-two (72) hours inspect each excavation, or part thereof, before filling any excavation.

- (3) It shall be unlawful to fill any such excavation without inspection and approval of the Building Inspector. Voids in filled excavations shall not be permitted. In the event of the unavailability of the Building Inspector to conduct an inspection within the seventy-two (72) hours after written notice; the permit holder, owner or his/her agent may retain the services of a certified, qualified municipal inspection service to obtain an opinion that approves filling of the excavation. Said opinion shall be deemed a sufficient approval by the Village provided that a written copy of the opinion is delivered to the Village Clerk-Treasurer at least forty-eight (48) hours before filling of the excavation commences.
 - (4) After all razing operations have been completed, the foundation shall be filled at least six (6) inches above the adjacent grade, the property raked clean, and all debris hauled away. All resulting vacant areas shall be properly graded and seeded or planted to restore it to a natural condition. Other restoration plans may be accepted by the Village Board.
- (e) **Removal and Disposal.** Removal, transportation and disposal of all hazardous waste, hazardous and toxic substances, and asbestos shall be conducted in compliance with all applicable state, federal and local statutes, ordinances and regulations. The permit holder shall give the Building Inspector seventy-two (72) hours written notice prior to any removal, transportation or disposal of hazardous waste, hazardous and toxic substances, and asbestos.
- (f) **Miscellaneous Provisions.**
- (1) 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.
 - (2) 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.
 - (3) All debris must be hauled away at the end of each day 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.
 - (4) 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.
 - (5) 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. 15-1-10 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 (including for sewer and water lateral excavations) 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 before workers leave the job site.
- (c) **Closing of Abandoned Excavations.** Any excavation for building purposes or any uncovered foundation which shall remain open for more than forty-five (45) days 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. 66.0703, Wis. Stats.
- (d) **Fill Dirt.** Fill dirt used at a site shall be graded within four (4) weeks of delivery/placement.

Sec. 15-1-11 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,

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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 of Wheeler 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 of Wheeler 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/her 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/she 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. 15-1-12 Regulations for Moving Buildings.

- (a) **General Requirements.**
 - (1) No person shall move any building or structure greater than two hundred (200) square feet upon any of the public ways of the Village of Wheeler without first obtaining a permit therefor from the Building Permit and upon the payment of the required fee to the Clerk-Treasurer. Every such permit issued by the Building Inspector for building moving 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 Public Works employees with regard to possible damage to trees. The estimated cost of trimming, removal and replacement of public trees, as determined by the Village of Wheeler, shall be paid to the Building Inspector or 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) **Moving Damaged Buildings.** No building shall be repaired, altered or moved within or into the Village that has deteriorated or has been damaged by any cause (including such moving and separation from its foundation and service connections in case of moved buildings) fifty percent (50%) or more of its equalized value and no permit shall be granted to repair, alter or move such building within or into the Village of Wheeler. Furthermore, if the equalized assessed value of the building is not within twenty percent (20%) of the surrounding buildings where the building is proposed to be moved to, no permit shall be granted unless the building is improved to be within the twenty percent (20%). Such determination shall be made by the Building Inspector, who may seek a recommendation from the Village Assessor.
- (c) **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.
- (d) **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 Village Clerk-Treasurer, who shall direct Village Public Works personnel to 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/her bond responsible for the payment of same.
- (e) **Conformance with Code.** No permit shall be issued to move a building within or into the Village of Wheeler and to establish it upon a location within the 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/she 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 of Wheeler 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.
- (f) **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 Wheeler in a sum to

be fixed by the Building Inspector and which shall not be less than Five Thousand Dollars (\$5,000.00), said bond to be executed by a corporate surety or two (2) personal sureties to be approved by the Village of Wheeler 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 (f)(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.
- (g) **Insurance.** The Building Inspector shall require, in addition to said bond above indicated, public liability insurance covering injury to one (1) person in the sum of not less than Five Hundred Thousand Dollars (\$500,000.00) and for one (1) accident, aggregate not less than One Million Dollars (\$1,000,000), together with property damage insurance in a sum not less than Five Hundred Thousand Dollars (\$500,000.00), or such other coverage as deemed necessary. The Village shall be an additional named insured.
- (h) **Village Board Approval.**
 - (1) No such permit shall be issued unless it has been found as a fact by the Village Board by at least a majority vote, after an examination of the application for the permit which shall include exterior elevations of the building and accurate photographs of all sides and views of the same and in case it is proposed to alter the exterior of said building, plans and specifications of such proposed alterations and after a view of the building proposed to be moved and of the site at which it is to be located, that the exterior architectural appeal and functional plans of the building to be moved or moved and altered, will not be so at variance with either the exterior architectural appeal and functional plan of the buildings already constructed or in the course of construction in the immediate neighborhood or in the character of the applicable district established by the zoning ordinances of the Village or any ordinance amendatory thereof or supplementary thereto, as to cause a substantial depreciation of the property values of said neighborhood within said applicable district. In case the applicant proposed to alter the exterior of said building after moving the same, he/she shall submit, with his/her application papers, complete plans and specifications

for the proposed alterations. Before a permit shall be issued for a building to be moved and altered, the applicant shall give a cash bond to the Village Board, which shall not be less than Fifty Thousand Dollars (\$50,000.00) to be executed in the manner provided in subsection hereof to the effect that he/she will, within a time to be set by the Village Board, complete the proposed exterior alterations to said building in the manner set forth in his/her plans and specifications. This bond shall be in addition to any other bond or surety which may be required by other applicable ordinances of the Village of Wheeler. No occupancy permit shall be issued for said building until the exterior alterations proposed to be made have been completed.

- (2) Upon application being made to the Building Inspector, he/she shall request a meeting of the Village Board to consider application for moving permits which he/she has found comply, in all respects, with all other ordinances of the Village. The Village Board may, if it desires, hear the applicant for the moving permit in question and/or the owner of the lot on which it is proposed to locate the building in question, together with any other persons, either residents or property owners, desiring to be heard, give such notice of hearing as they may deem sufficient. Such hearing may be adjourned for a reasonable length of time and within forty-eight (48) hours after the close of the hearing, the Village Board shall, in writing, make or refuse to make the finding required by Subsection (h)(1) hereof and file it in the office of Village Clerk-Treasurer who shall send a copy of it to the Building Inspector.

Sec. 15-1-13 Construction Sites; Maintaining Clean Streets.

Village streets are to be kept clean of dirt and debris from all construction sites. The primary contractor for any construction project shall be responsible for sweeping streets of debris within twenty-four (24) hours of the incident. The Village of Wheeler will clean said street(s) if the work is not done within twenty-four (24) hours of the incident; and charge the current established costs to the contractor for the work. Failure to pay said costs within thirty (30) days of receipt of the billing shall be deemed a violation of this Section, and be subject to the penalty provisions of Section 1-1-6.

Sec. 15-1-14 Duplex Service Connections.

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

Sec. 15-1-15 Fees.

- (a) **Building Code Fees.** Fees for building, electrical, plumbing, HVAC and other related permits shall be as established pursuant to Section 1-3-1.

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- (b) **Double Fees.** If a required permit is not obtained prior to commencement of construction, fees shall be doubled.
- (c) **Payment of Impact Fees as Condition of Building Permit Validity.** All required impact fees, unless expressly excepted in this Section, are to be paid to the Village Clerk-Treasurer within fourteen (14) days of the issuance of a building permit by the Village of Wheeler. Impact fee payments shall be the responsibility of the owner of record of the subject parcel at the time the impact fee is imposed on that parcel.

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) **Violations.** Any building or structure in the Village of Wheeler 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 Section 1-1-6 of this 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) **Compliance; Penalties.**
 - (1) **Notice of Noncompliance.** 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 SPS 320.21, Wis. Adm. Code.
 - (2) **Stop Work Orders.** 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 a Separate Offense.*** 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 of Wheeler from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter or the Uniform Dwelling Code.
 - (4) ***Double Permit Fees for Violations.*** If any construction or work governed by the provisions of this Chapter, the Uniform Dwelling Code, or other applicable Codes adopted and incorporated in this Chapter is commenced prior to the issuance of a permit, double fees shall be charged.
- (c) **Appeals.**
- (1) ***UDC Appeals.*** Any person feeling aggrieved by an order or determination of the Building Inspector on a matter governed by the Wisconsin Uniform Dwelling Code may only appeal such an order to the Wisconsin Department of Safety and Professional Services for a UDC interpretation.
 - (2) ***Board of Appeals Review.*** Any person feeling aggrieved by an order or a determination of the Building Inspector and/or other Village official administering this Chapter 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) **Liability.** Except as may otherwise be provided by the Statute or Ordinance, no officer, agent or employee of the Village of Wheeler charged with the enforcement of this Chapter shall render himself/herself 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/her duties under this Chapter. Any suit brought against any officer, agent or employee of the Village of Wheeler as a result of any act required or permitted in the discharge of his/her duties under this Chapter shall be defended by the legal representative of the Village until the final determination of the proceedings therein.

Title 15 ► Chapter 2

Construction Site Erosion Control

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Sec. 15-2-1 Authority.

- (a) **Statutory Authority.** This Chapter is adopted under the authority granted by Sec. 61.354, Wis. Stats. This Chapter supersedes all provisions of any ordinance(s) previously adopted under Sec. 61.35, Wis. Stats., relating to construction site erosion control. Except as otherwise specified in Sec. 61.354, Wis. Stats., Sec. 61.35, Wis. Stats., applies to this Chapter and to any amendments thereto.
- (b) **Other Regulations.** The provisions of this Chapter are deemed not to limit any other lawful regulatory powers of the Village Board.
- (c) **Administration.** The Village Board hereby designates the Village Engineer to administer and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Village Engineer may be delegated in writing by the Village Engineer to persons or entities acting in the beneficial interest or in the employ of the Village of Wheeler.

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- (d) **Limitations on Pre-Emption.** The requirements of this Chapter do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
- (1) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Sections 281.16 and 283.33, Wis. Stats.
 - (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under NR 151.004, Wis. Adm. Code.
 - (3) Wisconsin Department of Safety and Professional Services administrative rules, permits or approvals.

Sec. 15-2-2 Findings of Fact.

The Village Board finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the Village of Wheeler.

Sec. 15-2-3 Purpose and Intent.

It is the purpose of this Chapter to:

- (a) Further the maintenance of safe and healthful conditions;
- (b) Prevent and control water pollution;
- (c) Prevent and control soil erosion;
- (d) Protect spawning grounds, fish and aquatic life;
- (e) Control building sites, placement of structures and land uses;
- (f) Preserve ground cover and scenic beauty; and
- (g) Promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the Village of Wheeler.

Sec. 15-2-4 Applicability and Jurisdiction.

- (a) **Applicability.** This Chapter applies to the following land disturbing activities on public or private lands, except as provided under Subsection (b) below, if:
- (1) Land disturbing construction activity is to be conducted that includes the construction of a building or is otherwise regulated by the Wisconsin Department of Safety and Professional Services; or
 - (2) An area of five thousand (5,000) square feet or greater will be disturbed by excavation, grading, filling or other earthmoving activities resulting in the loss or removal or protective ground cover or vegetation; or

- (3) Excavation, fill or any combination thereof, will be conducted, exceeding one thousand (1,000) cubic yards or more of dirt, soil or other excavation or fill material; or
 - (4) Any public (federal, state, or local) street, road or highway is to be constructed, enlarged, relocated or reconstructed; or
 - (5) Any proposed land use by a unit of government or by public or private utilities will require that underground conduits, cables, piping, wiring, water lines, sanitary sewers or storm sewers be laid, repaired, replaced or enlarged, if such use involves more than three hundred (300) linear feet of trenching or earth disturbance; or
 - (6) The development of any subdivision requiring plat approval or any certified survey map; or
 - (7) The conduct of any land disturbing activity on slopes greater than fifteen percent (15%).
- (b) **Inapplicability.** This Chapter does not apply to the following:
- (1) A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under Chapter 40, Code of Federal Regulations, Part 122, for land disturbing activity.
 - (2) Non-point discharges from agricultural facilities and practices.
 - (3) Non-point discharges from silviculture activities.
 - (4) Routine maintenance for project sites under five (5) acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (c) **Village Staff Determination.** Notwithstanding the applicability requirements in Subsection (a), this Chapter applies to construction sites of any size that, in the opinion of the Village Engineer, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- (d) **Jurisdiction.** This Chapter applies to land disturbing construction activities on lands within the boundaries and jurisdiction of the Village of Wheeler, as well as all lands located within the extraterritorial plat approval jurisdiction of the Village of Wheeler [the unincorporated area within one and one-half (1.5) miles of the Village], even if plat approval is not involved, pursuant to Sec. 236.45(2) and (3), Wis. Stats.
- (e) **Exclusions.** This Chapter is not applicable to activities conducted by a state agency, as defined under Secs. 59.001(1) and 227.01(1), Wis. Stats.

Sec. 15-2-5 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Definitions Established.** The following definitions shall be applicable in this Chapter:
- (1) **Administrative Authority.** A governmental employee, or a regional planning commission empowered under Section 60.627, Wis. Stats., that is designated by the Wheeler Village Board to administer this Chapter.

- (2) **Agricultural Activity Area.** The part of the farm where there is planning, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavations, filling and similar practices. The agricultural activity area does not include the agricultural production area.
- (3) **Agricultural Facilities and Practices.** Has the meaning in Sec. 281.16(1), Wis. Stats.
- (4) **Agricultural Production Area.** The part of a farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the "agricultural activity area".
- (5) **Average Annual Rainfall.** A calendar year of precipitation, excluding snow, which is considered typical.
- (6) **Best Management Practice ("BMP").** Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff beyond the construction site and to waters of the state.
- (7) **Business Day.** A day the Office of the Village Engineer is routinely and customarily open for business.
- (8) **Cease and Desist Order.** A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (9) **Common Plan of Development or Sale.** A development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.
- (10) **Construction Site.** An area upon which one (1) or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.
- (11) **Development.** Residential, commercial, industrial, institutional, or other land uses and associated roads.
- (12) **Division of Land.** The creation of two (2) or more parcels or building sites from one (1) parcel.
- (13) **Erosion.** The process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (14) **Erosion and Sediment Control Plan.** A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (15) **Extraterritorial.** The unincorporated area within three (3) miles of the corporate limits of a first, second or third class city, or with one and one-half (1 1/2) miles of a fourth class city or village.

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- (16) **Final Stabilization.** That all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least seventy percent (70%) of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
- (17) **Governing Body.** The Village Board of the Village of Wheeler.
- (18) **Land Disturbing Construction Activity (Disturbance).** Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes, but is not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.
- (19) **Maximum Extent Practicable (MEPJ).** A level of implementing best management practices in order to achieve a performance standard specified in this Chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
- (20) **Performance Standard.** A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (21) **Permit.** Written authorization made by the Village Engineer to the applicant to conduct land disturbing construction activity.
- (22) **Pollutant.** Has the meaning given in Section 283.01(13), Wis. Stats.
- (23) **Pollution.** Has the meaning given in Section 281.01(10), Wis. Stats.
- (24) **Responsible Party.** Any entity holding fee title to the property or other person contracted or obligated to meet the performance standards of this Chapter through a contract or other agreement.
- (25) **Runoff.** Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (26) **Sediment.** Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (27) **Separate Storm Drain Inlet Structure.** A conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
- a. Is designed or used for collecting water or conveying runoff.
 - b. Discharges directly or indirectly to waters of the state.
- (28) **Site.** The entire area included in the legal description of the land on which the land disturbing construction activity is proposed.
- (29) **Stop Work Order.** An order issued by the Village Engineer which requires that all construction activity on the site be stopped.

- (30) **Technical Standard.** A document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (31) **Village Engineer.** The professional engineer or certified building inspector designated by the Village Board of Wheeler to administer this Chapter, and includes any other persons supervised by the professional engineer or certified building inspector.
- (32) **Waters of the State.** Has the meaning given in Section 281.01(18), Wis. Stats.

Sec. 15-2-6 Technical Standards.

The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, and fueling/vehicle maintenance components of storm water practices needed to meet the water quality standards of this Chapter:

- (a) **Design Criteria, Standards and Specifications.** All BMPs required to comply with this Chapter shall meet the design criteria, standards and specifications based on any of the following:
 - (1) Applicable design criteria, standards and specifications identified in the *Wisconsin Construction Site Best Management Practice Handbook*, WDNR Pub. WR-52, Current Revision.
 - (2) Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under Subchapter V of NR 151, Wis. Adm. Code.
- (b) **Other Standards.** Other technical standards not identified or developed in Subsection (a) may be used provided that the methods have been approved by the Village Engineer.

Sec. 15-2-7 Land Disturbance for Construction of Buildings.

- (a) **Grade.** The finished grade of the soil shall slope away from the dwelling at a rate of at least one-half (1/2) inch per foot for a minimum distance of ten (10) feet, or to the lot line, whichever is less.
- (b) **Erosion Control Procedures.**
 - (1) **Performance Standards - General.** Perimeter erosion control measures shall be placed within twenty-four (24) hours after beginning of excavation. Erosion control measures shall be placed along downslope areas and along sideslope areas as required to prevent or reduce erosion where erosion during construction will result in a loss of soil to waters of the state, public sewer inlets or off-site. The best management practices as defined in the Wisconsin Administrative Code or alternative measures that provide equivalent protection to these practices may be utilized to satisfy the requirements of this Section. When the disturbed area is stabilized, the erosion control measures may be removed.

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- (2) **Stabilization by Seeding and Mulching.** Slopes greater than or equal to twelve percent (12%), with a downslope length of ten (10) feet or more, are not considered stabilized with seeding and mulching unless used in conjunction with a tackifier, netting, or matting. Asphalt emulsion may not be used as a tackifier.
 - (3) **Tracking.** Sediment tracked by construction equipment from a site onto a public or private paved road or sidewalk shall be minimized by providing a non-tracking access roadway. The access roadway shall be installed as approved on the plot plan, prior to framing above the first floor decking. The sediment cleanup provisions of Subsection (b)(4) are unaffected by the presence or absence of an access roadway. **[Note:** It is not the intent of Subsection (b)(3) to require a gravel access roadway where natural conditions, such as sandy soils or solidly frozen soil, already provide non-tracking access.]
 - (4) **Sediment Cleanup.** Off-site sediment deposition occurring as a result of a storm event shall be cleaned up by the end of the next work day following the occurrence. All other off-site sediment deposition occurring as a result of construction activities shall be cleaned up at the end of the work day.
 - (5) **Public Sewer Inlet Protection.** Downslope, on-site public sewer inlets shall be protected with erosion control procedures.
 - (6) **Building Material Waste Disposal.** All building material waste shall be properly managed and disposed of to prevent pollutants and debris from being carried off the site by runoff.
- (c) **Best Management Practices.** Appropriate best management practices, as specified in Chapter 3, *Wisconsin Construction Site Best Management Practices Handbook*, published by the Wisconsin Department of Natural Resources, may be selected, installed, maintained and remain in place until the site is stabilized to meet the performance standards specified Section 15-2-6.
- (d) **Maintenance of Control Procedures.**
- (1) **General.** During the period of construction at a site, all erosion control procedures necessary to meet the performance standards of this Section shall be properly implemented, installed and maintained by the building permit applicant or subsequent landowner. If erosion occurs after building construction activities have ceased, some or all of the erosion control procedures shall be maintained until the site has been stabilized.
 - (2) **Exceptions and Clarification.** The maintenance procedures and inspection sequences with Chapter 3, *Wisconsin Construction Site Best Management Practices Handbook*, are not adopted as a part of this Chapter.
- (e) **Dismantling of Erosion Control Procedures.** Except for permanent erosion control systems, the owner shall be responsible for dismantling and removing erosion control procedures once the soil on the site is stabilized.

Sec. 15-2-8 Performance Standards for Land Disturbing Construction Sites (Not for Buildings).

- (a) **Plan Requirement.** The responsible party shall implement a written erosion and sediment control plan for each construction site, developed in accordance with Section 15-2-10, that incorporates the requirements of this Section.
- (b) **Erosion and Other Pollutant Control Requirements.** The plan required under Subsection (a) shall include the following:
 - (1) BMPs that, by design, achieve to the maximum extent practicable, a reduction of eighty percent (80%) of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or **BMPs** until the construction site has undergone final stabilization. No person shall be required to exceed an eighty percent (80%) sediment reduction to meet the requirements of this Subsection. Erosion and sediment controls may be used alone or in combination to meet the requirements of this Subsection. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.
 - (2) Notwithstanding Subsection (b)(1) above, if BMPs cannot be designed and implemented to reduce the sediment load by eighty percent (80%), on an average annual basis, the plan shall include a written and site-specific explanation as to why the eighty percent (80%) reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.
 - (3) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:
 - a. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
 - b. Prevent the discharge of sediment as part of site de-watering.
 - c. Protect the separate storm drain inlet structure from receiving sediment.
 - (4) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance beyond the construction site or into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or **BMP** installations, are not prohibited by this Subsection.
- (c) **Location.** The BMPs used to comply with this Section shall be located to prevent runoff entering properties owned by others, Village stormwater conveyance systems or waters of the state.
- (d) **Alternate Requirements.** The Village Engineer may establish stormwater management requirements more stringent than those set forth in this Section if the Village Engineer determines that an added level of protection is needed for sensitive resources.

Sec. 15-2-9 Permitting Requirements, Procedures and Fees.

- (a) **Permit Required.** No responsible party may undertake a land disturbing construction activity subject to this Chapter without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Village Engineer.
- (b) **Permit Application and Fees.** At least one responsible party desiring to undertake a land disturbing construction activity subject to this Chapter shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of Section 15-2-10. The applicant shall pay an application fee described in Section 15-2-11 and which is consistent with the fee schedule maintained by the Village Clerk-Treasurer. By submitting an application, the applicant is authorizing the Village Engineer or designee to enter the site to obtain information required for the review of the erosion and sediment control plan.
- (c) **Review and Approval of Permit Application(s); Failure to Act.** The Village Engineer shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:
 - (1) Within twenty-one (21) business days of the receipt of a complete permit application, including all items as required by Subsection (b), the Village Engineer shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this Chapter.
 - (2) If the permit application and plan are approved, the Village Engineer shall issue the permit.
 - (3) If the permit application or plan is disapproved, the Village Engineer shall state in writing the reasons for disapproval.
 - (4) The Village Engineer may request additional information from the applicant. If additional information is submitted, the Village Engineer shall have five (5) weeks from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
 - (5) Failure by the Village Engineer to inform the permit applicant of a decision within three (3) weeks of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (d) **Financial Guarantee.** As a condition of approval and issuance of the permit, the Village Engineer may require the applicant to deposit a surety bond or irrevocable letter of credit in an amount equal to one hundred and twenty-five percent (125%) of the estimated cost of all required control measures to guarantee a good faith execution of the approved erosion control plan and any permit conditions. The security shall remain in full force for the entire period of the permit unless released earlier by the Village. If the approved plan is included as part of a plat or certified survey map conditions of approval, then the overall security for performance of the approved plan may be included as part of the overall security required for installation of improvements under the Village's Land and Subdivision Ordinance (Title 14).

- (e) **Permit Requirements.** All permits shall require the responsible party to:
 - (1) Notify the Village Engineer within two (2) full business days before any land disturbing construction activity.
 - (2) File a notice of completion of all land disturbing activities and/or installation of BMPs within ten (10) days after their installation.
 - (3) Obtain permission in writing from the Village Engineer prior to any modification pursuant to Section 15-2-10(c) of the erosion and sediment control plan.
 - (4) Install all BMP's as identified in the approved erosion and sediment control plan.
 - (5) Maintain all road drainage systems, stormwater drainage systems, BMP's and other facilities identified in the erosion and sediment control plan.
 - (6) Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land disturbing construction activities and document repairs in a site erosion control log.
 - (7) Inspect the BMP's within twenty-four (24) hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week, make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
 - (8) Allow the Village Engineer or designee staff to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. The responsible party shall keep a copy of the erosion and sediment control plan at the construction site.
- (f) **Permit Conditions.** Permits issued under this Section may include conditions established by the Village Engineer in addition to the requirements set forth in Subsection (e), where needed to assure compliance with the performance standards in Section 15-2-6.
- (g) **Permit Duration.** Permits issued under this Section shall be valid for a period of one hundred eighty (180) days from the date of issuance. The permit duration may be extended by the Village Engineer one (1) or more times for up to an additional one hundred eighty (180) days. The Village Engineer may require additional BMP's as a condition of the extension if they are necessary to meet the requirements of this Chapter.
- (h) **Maintenance.** The responsible party throughout the duration of the construction activities shall maintain all BMP's necessary to meet the requirements of this Chapter until the site has undergone final stabilization.

Sec. 15-2-10 Erosion and Sediment Control Plan, Statement and Amendments.

- (a) **Erosion and Sediment Control Plan.**
 - (1) An erosion and sediment control plan shall be prepared and submitted to the Village Engineer.

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- (2) The erosion and sediment control plan shall be designed to meet the performance standards in Section 15-2-6 and other requirements of this Chapter.
 - (3) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
 - a. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include the estimated start and end dates for construction.
 - b. Description of the site and the nature of the construction activity.
 - c. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 - d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
 - e. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.
 - f. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
 - g. Existing data describing the surface soil as well as subsoils.
 - h. Depth to groundwater, as indicated by Natural Resources Conservation Service.
 - i. Service soil information where available.
 - (4) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than one hundred (100) feet per inch and at a contour interval not to exceed two (2) feet.
 - a. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface water. Lakes, streams, wetlands, channels, ditches and other water courses on and immediately adjacent to the site shall be shown. Any identified one hundred (100) year flood plains, flood fringes and floodways shall also be shown.
 - b. Boundaries of the construction site.
 - c. Drainage patterns and approximate slopes anticipated after major grading activities.
 - d. Areas of soil disturbance.
 - e. Location of major structural and non-structural controls identified in the plan.
 - f. Location of areas where stabilization practices will be employed.
 - g. Areas which will be vegetated following construction.

- h. Area of wetland acreage on the site and locations where stormwater is discharged to a surface water or wetland.
 - i. An alphanumeric or equivalent grid overlying the entire construction site map.
- (5) Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from leaving the site. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:
- a. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
 - b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the Village Engineer, structural measures shall be installed on upland soils.
 - c. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
 - d. Trapping of sediment in channelized flow.
 - e. Staging construction to limit bare areas subject to erosion.
 - f. Protection of downslope drainage inlets where they occur.
 - g. Minimization of tracking at all sites.
 - h. Cleanup of off-site sediment deposits.
 - i. Property disposal of building and waste materials at all sites.
 - J. Stabilization of drainageways.
 - k. Control of soil erosion from dirt stockpiles.
 - l. Installation of permanent stablization practices as soon as possible after final grading.
 - m. Minimization of dust to the maximum extent practicable.
- (6) The erosion and sediment control plan shall require controls be placed to slow the flow of water at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.
- (b) **Erosion and Sediment Control Plan Statement.** For each construction site identified under Section 15-2-4(a), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Village Engineer. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the Chapter, including the site development schedule.

- (c) **Amendments.** The applicant shall amend the plan if any of the following occur:
- (1) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
 - (2) The actions required by the plan fail to reduce the impacts of pollutants carried by the construction site runoff.
 - (3) The Village Engineer notifies the applicant of changes needed in the plan.

Sec. 15-2-11 Fee Schedule.

Any person who submits an application for approval of an erosion control plan or issuance of approval by the Chapter, shall pay a fee as specified in Section 1-3-1, and, in addition, shall pay the Village's actual cost for engineering work by the Village Engineer in connection with the plan. The fee shall be paid prior to issuance of the permit if the engineering review fees have been billed by that time. If billed to the Village after issuance of the permit, the fee shall be paid within thirty (30) days of its receipt by the applicant. Failure to pay such a fee within thirty (30) days shall be grounds for revocation of the permit, issuance of a stop work order, and/or charging the cost as a special tax against the property pursuant to Sec. 66.0703, Wis. Stats.

Sec. 15-2-12 Inspection.

If land disturbing construction activities are being carried out without a permit required by this Chapter, the Village Engineer may enter the land pursuant to the provisions of Section 66.0119(1), (2) and (3), Wis. Stats.

Sec. 15-2-13 Exceptions and Waivers.

- (a) **General.** Where the Village Engineer finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, they may approve exceptions and waivers to these regulations so that substantial justice may be done and the public interest secured, provided the exception or waiver shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Village Engineer shall not approve exceptions and waivers unless he/she shall make findings based upon the evidence presented that all of the following conditions are met by the petitioner:
- (1) The granting of the exception or waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;

- (2) The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;
 - (3) Because of the location or conditions affecting the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
 - (4) The relief sought will not materially alter the provisions of any existing regional stormwater management plan except that this document may be amended in the manner prescribed by law; and
 - (5) The granting of the exception or waiver will not result in a violation of State or Federal laws or permits.
- (b) **Conditions.** In approving exceptions or waivers, the Village Engineer may require such conditions as will in his/her judgment secure substantially the purposes described in this Chapter and accompanying written stormwater management and erosion control requirements.
- (c) **Procedures.** A petition for an exception or waiver shall be submitted in writing by the responsible party at the time when the development is filed for the consideration by the Village Engineer. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

Sec. 15-2-14 Enforcement.

- (a) The Village Engineer may post a stop-work order if any of the following occurs:
- (1) Any land disturbing construction activity regulated under this Chapter is being undertaken without a permit.
 - (2) The erosion and sediment control plan is not being implemented in a good faith manner.
 - (3) The conditions of the permit are not being met.
- (b) If the responsible party does not cease the activity as required in a stop-work order posted under this Section or fails to comply with the erosion and sediment control plan or permit conditions, the Village Engineer may revoke the permit.
- (c) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Village Engineer, or if a responsible party violates a stop-work order posted under Subsection (a), the Village Engineer may request the Village Attorney to obtain a cease and desist order in any court with jurisdiction.
- (d) The Village Engineer may retract the stop-work order issued under Subsection (a) or the permit revocation under Subsection (b).
- (e) After posting a stop-work order under Subsection (a), the Village Engineer may issue a notice of intent to the responsible party of intent to perform work necessary to comply with this Chapter. The Village Engineer may go on the land and commence the work after

- issuing the notice of intent. The costs of the work performed under this Subsection by the Village of Wheeler, plus interest at the rate of one percent (1%) per month for each month or part thereof, shall be billed to the responsible party or recovered from the surety bond or irrevocable letter of credit. In the event a responsible party fails to pay the amount due, the Village Clerk-Treasurer shall enter the amount due on the tax rolls and collect it as a special charge against the property pursuant to Subchapter VII of Chapter 66, Wis. Stats.
- (f) Any person, firm, association, or corporation violating any of the provisions of this Chapter shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and the costs of prosecution for each violation. Each day that the violation exists shall constitute a separate offense.
 - (g) Compliance with the provisions of this Chapter may also be enforced by injunction in any court of competent jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

Sec. 15-2-15 Appeals.

- (a) **Appellate Body.** The Village of Wheeler Village Board, created pursuant to the Village of Wheeler Code of Ordinances:
 - (1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village Engineer in administering this Chapter, except for cease and desist orders under Sec. 15-2-14(c);
 - (2) Upon appeal, the Village Board may authorize variances from the provisions of this Chapter that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the Chapter will result in unnecessary hardship; and
 - (3) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (b) **Who May Appeal.** Appeals to the Village Board may be taken by any aggrieved person or by an officer, department, board, or bureau of the Village of Wheeler affected by any decision of the Village Engineer.
- (c) **Court Action.** This Section does not apply to determinations made regarding this Chapter in either municipal court (if created) or circuit court. In such circumstances the appeal procedure shall be that set forth for appealing municipal court decisions and/or circuit court decisions as applicable.

Sec. 15-2-16 Limitations on Village Responsibility.

Nothing in this Chapter creates or imposes, nor shall be construed to create or impose, any greater obligation or responsibility on the Village of Wheeler which has adopted this Chapter than those minimum requirements specifically required by the Wisconsin Statutes and Wisconsin Department of Natural Resources regulations.

Title 15 ► Chapter 3

Post-Construction Stormwater Management

15-3-1	Authority
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15-3-16	Limitations on Village Responsibility

Sec. 15-3-1 Authority.

- (a) **Statutory Authority.** This Chapter was originally adopted under the authority granted by Sec. 61.354, Wis. Stats. This Chapter supersedes all provisions of ordinance(s) previously enacted under Sec. 61.35, Wis. Stats., that relate to stormwater management regulations. Except as otherwise specified in Sec. 61.354, Wis. Stats., Sec. 61.35, Wis. Stats., applies to this Chapter and to any amendments to this Chapter.
- (b) **Limitation on Other Regulations.** The provisions of this Chapter are deemed not to limit any other lawful regulatory powers of the same governing body.
- (c) **Administration.** The Village of Wheeler hereby designates the Village Engineer to administer and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Village Engineer may be delegated by the Village Engineer to persons or entities acting in the beneficial interest of or in the employ of the Village.

- (d) **Applicability of Requirements.** The requirements of this Chapter do not pre-empt more stringent stormwater management requirements that may be imposed by any of the following:
- (1) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Secs. 281.16 and 283.33, Wis. Stats.
 - (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under NR 151.004, Wis. Adm. Code.

Sec. 15-3-2 Findings of Fact.

The Village Board of the Village of Wheeler Board finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (a) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperatures.
- (b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (d) Reduce the quality of groundwater by increasing pollutant loading.
- (e) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- (f) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- (g) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

Sec. 15-3-3 Purpose and Intent.

- (a) **Purpose.** The general purpose of this Chapter is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:
- (1) Further the maintenance of safe and healthful conditions.
 - (2) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and

- aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
- (3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- (b) **Intent.** It is the intent of the Village of Wheeler that this Chapter regulates post-construction stormwater discharges to waters of the state. This Chapter may be applied on a site-by-site basis. The Village of Wheeler recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this Chapter is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one (1) site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Sec. 281.16, Wis. Stats., for regional stormwater management measures and have been approved by the Village of Wheeler, it is the intent of this Chapter that the approved plan be used to identify post-construction management measures acceptable for the community.

Sec. 15-3-4 Applicability and Jurisdiction.

- (a) **Applicability.**
- (1) Where not otherwise limited by law, this Chapter applies to land development activity that results in one (1) or more acres of land disturbing construction activity, unless the site is otherwise exempt under Subsection (a)(2) below.
- (2) A post-construction site that meets any of the criteria in this Subsection is exempt from the requirements of this Chapter:
- A redevelopment post-construction site with no net increase in exposed parking lots, roads, rooftops, or other impervious areas.
 - A post-construction site with less than ten percent (10%) connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one (1) acre.
 - Nonpoint discharges from agricultural facilities and practices.
 - Nonpoint discharges from silviculture activities.
 - Routine maintenance for project sites under five (5) acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
 - Underground utility construction such as but not limited to water, sewer and fiber optic lines. This exemption does not apply to the construction of any above ground structures or lift stations associated with utility construction.

- (3) Notwithstanding the applicability requirements in Subsection (a)(1), this Chapter applies to land development activity of any size that, in the opinion of the Village Engineer or Building Inspector, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- (b) **Jurisdiction.** This Chapter applies to post-construction sites within the boundaries and jurisdiction of the Village of Wheeler, as well as all lands located within the extraterritorial plat approval jurisdiction of the Village of Wheeler, even if plat approval is not involved.
- (c) **Exclusions.** This Chapter is not applicable to activities conducted by a state agency, as defined under Sec. 227.01(1), Wis. Stats., but also including the Office of District Attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Sec. 281.33(2), Wis. Stats.

Sec. 15-3-5 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Definitions Established.** The following definitions shall be applicable in this Chapter:
 - (1) **Administrative Authority.** A governmental employee, or a regional planning commission empowered under Sec. 61.354, Wis. Stats., that is designated by the Village Board to administer this Chapter.
 - (2) **Agricultural Activity Area.** The part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavations, filling and similar practices. The agricultural activity area does not include the agricultural production area.
 - (3) **Agricultural Facilities and Practices.** Has the meaning given in Sec. 281.16, Wis. Stats.
 - (4) **Agricultural Production Area.** The part of a farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the "agricultural activity area".
 - (5) **Average Annual Rainfall.** A calendar year of precipitation, excluding snow, which is considered typical.
 - (6) **Best Management Practice ("BMP").** Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

- (7) **Business Day.** A day the Office of Village Engineer is routinely and customarily open for business.
- (8) **Cease and Desist Order.** A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (9) **Combined Sewer System.** A system for conveying both sanitary and stormwater runoff.
- (10) **Common Plan of Development or Sale.** A development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.
- (11) **Connected Imperviousness.** An impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
- (12) **Construction Site.** An area upon which one (1) or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale.
- (13) **Design Storm.** A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (14) **Development.** Residential, commercial, industrial, institutional, or other land uses and associated roads.
- (15) **Division of Land.** The creation from one parcel of five (5) or more parcels or building sites of four (4) or fewer acres each in area where such creation occurs at one time or through the successive partition within a five (5) year period.
- (16) **Effective Infiltration Area.** The area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (17) **Erosion.** The process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (18) **Exceptional Resource Waters.** Waters listed in NR 102.11, Wis. Adm. Code.
- (19) **Extraterritorial.** The unincorporated area within three (3) miles of the corporate limits of a first, second or third class city, or with one and one-half (1 1/2) miles of a fourth class city or village.
- (20) **Final Stabilization.** That all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least seventy percent (70%) of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
- (21) **Financial Guarantee.** A performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Village Clerk-Treasurer or Engineer by the responsible party to assure that requirements of the Chapter are carried out in compliance with the stormwater management plan.

- (22) **Governing Body.** The Village Board of the Village of Wheeler.
- (23) **Highway.** Has the meaning given in Sec. 340.01(22), Wis. Stats.
- (24) **Highway Reconditioning.** Has the meaning given in Sec. 84.013(1)(b), Wis. Stats.
- (25) **Highway Reconstruction** Has the meaning given in Sec. 84.013(1)(c), Wis. Stats.
- (26) **Highway Resurfacing.** Has the meaning given in Sec. 84.013(1)(d), Wis. Stats.
- (27) **Impervious Surface.** An area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed to encourage infiltration.
- (28) **In-Fill Area.** An undeveloped area of land located within existing development.
- (29) **Infiltration.** The entry of precipitation or runoff into or through the soil.
- (30) **Infiltration System.** A device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (31) **Karst Feature.** An area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.
- (32) **Land Development Activity.** Any construction-related activity that results in the addition or replacement of impervious surfaces such as rooftops, roads, parking lots, and other structures. Measurement of areas impacted by land development activity includes areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.
- (33) **Land Disturbing Construction Activity (Disturbance).** Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.
- (34) **Maintenance Agreement.** A legal document that provides for long-term maintenance of stormwater management and best management practices.
- (35) **Maximum Extent Practicable (MEP).** A level of implementing best management practices in order to achieve a performance standard specified in this Chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

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- (36) **Minor Reconstruction of a Highway.** Reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed one hundred (100) feet in width of roadbed widening.
 - (37) **New Development.** Development resulting from the conversion of previously undeveloped land or agricultural land uses.
 - (38) **Off-Site.** Located outside the property boundary described in the permit application.
 - (39) **On-Site.** Located within the property boundary described in the permit application.
 - (40) **Ordinary High-Water Mark.** Has the meaning given in NR 115.03(6), Wis. Adm. Code.
 - (41) **Outstanding Resource Waters.** Waters listed in NR 102.10, Wis. Adm. Code.
 - (42) **Percent Fines.** The percentage of a given sample of soil, which passes through a #200 sieve.
 - (43) **Performance Standard.** A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
 - (44) **Permit.** Written authorization made by the Village Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
 - (45) **Permit Administration Fee.** A sum of money paid to the Village of Wheeler by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
 - (46) **Pervious Surface.** An area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.
 - (47) **Pollutant.** Has the meaning given in Sec. 283.01(13), Wis. Stats.
 - (48) **Pollution.** Has the meaning given in Sec. 281.01(10), Wis. Stats.
 - (49) **Post-Construction Site.** A construction site following the completion of land disturbing construction activity and final site stabilization.
 - (50) **Post-Development.** The extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.
 - (51) **Pre-Development.** The extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.
 - (52) **Preventive Action Limit.** Has the meaning given in NR 140.05(17), Wis. Adm. Code.
 - (53) **Redevelopment.** Areas where development is replacing older development.
 - (54) **Responsible Party.** Any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMP's.
 - (55) **Routine Maintenance.** That portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the

facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower one-half (1/2) of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower one-half (1/2) of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed.

- (56) **Runoff.** Stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (57) **Separate Storm Sewer.** A conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
 - a. Is designed or used for collecting water or conveying runoff.
 - b. Is not part of a combined sewer system.
 - c. Is not draining to a stormwater treatment device or system.
 - d. Discharges directly or indirectly to waters of the state.
- (58) **Site.** The entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (59) **Stop Work Order.** An order issued by the Village Engineer which requires that all construction activity on the site be stopped.
- (60) **Stormwater Management Plan.** A comprehensive plan designed to reduce the discharge of pollutants from stormwater after the site has undergone final stabilization following completion of the construction activity.
- (61) **Stormwater Management System Plan.** A comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (62) **Technical Standard.** A document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (63) **Top of the Channel.** An edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than twelve percent (12%) continually for at least fifty (50) feet. If the slope of the land is twelve percent (12%) or less continually for the fifty (50) feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (64) **TR-55.** The "United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55", June, 1986.
- (65) **Transportation Facility.** A public street, a public road, a public highway, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under Sec. 85.095(1)(b), Wis. Stats.

- (66) **Type II Distribution.** A rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149", published 1973. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.
- (67) **Village Engineer.** The professional engineer or certified building inspector designated by the Village Board to administer this Chapter, and includes any other persons supervised by the professional engineer or certified building inspector.
- (68) **Waters of the State.** Has the meaning given in Sec. 281.01(18), Wis. Stats.

Sec. 15-3-6 Technical Standards and Design Methods.

- (a) **Design Criteria.** The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of stormwater practices needed to meet the water quality standards of this Chapter:
 - (1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under Subchapter V of Ch. NR 151, Wis. Adm. Code.
 - (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used, provided that the methods have been approved by the Village Engineer.
 - (3) In this Chapter, the following year and location has been selected as average annual rainfall: Madison, 1981 (March 12 - December 2).
- (b) **Freeboard.** The design top elevation within a pond shall be two (2) feet above any calculated one hundred (100) year floodplain elevation or one (1) foot above the adjacent emergency overflow.

Sec. 15-3-7 Performance Standards.

- (a) **Responsible Party.** The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this Section.
- (b) **Plan.** A written stormwater management plan in accordance with Section 15-3-9 and shall be implemented for each post-construction site.
- (c) **Requirements.** The plan required under Subsection (b) shall include the following:
 - (1) **Total Suspended Solids.** BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
 - a. For new development, by design, reduce to the maximum extent practicable the total suspended solids load by eighty percent (80%), based on the average annual rainfall, as compared to no runoff management controls. No person shall be

- required to exceed an eighty percent (80%) total suspended solids reduction to meet the requirements of this Subsection.
- b. For redevelopment, by design, reduce to the maximum extent practicable the total suspended solids load by eighty percent (80%), based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an eighty percent (80%) total suspended solids reduction to meet the requirements of this Subsection.
 - c. For in-fill development under five (5) acres that occurs within ten (10) years after the effective date of this rule, by design, reduce to the maximum extent practicable the total suspended solids load by forty percent (40%), based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a forty percent (40%) total suspended solids reduction to meet the requirements of this Subsection.
 - d. For in-fill development that occurs ten (10) or more years after the effective date of this rule, by design, reduce to the maximum extent practicable the total suspended solids load by eighty percent (80%), based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an eighty percent (80%) total suspended solids reduction to meet the requirements of this Subsection.
 - e. Notwithstanding Subsections (c)(1)a-d above, if the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation as to why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.
- (2) ***Oil and Grease Control.***
- a. All commercial or industrial developments and all other uses where the potential for pollution by oil and grease or both exists, the first half-inch (0.50") of runoff will be treated using the best oil and grease removal technology available.
 - b. In addition to Subsection (c)(2)a above, all fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.
- (3) ***Peak Discharge.***
- a. By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions for the 2-year, 10-year, 25-year, and 100-year 24-hour design storm applicable to the post-construction site.
 - b. Separate subcatchments shall be used to model pervious and impervious areas within a watershed area located in the development site, when calculating runoff volumes and peak discharge rates.

- c. Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. The meanings of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used:

Maximum Pre-Development Runoff Curve Numbers - Cropland				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

- d. Stormwater discharge from a newly developed site must have a stable outlet capable of carrying the design flow at velocities that are non-erosive to the outlet and receiving streams.
- e. This Subsection of this Chapter does not apply to any of the following:
 - 1. A post-construction site where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving water by more than 0.01 of a foot for the 2-year, 24-hour storm event.
 - 2. A redevelopment post-construction site.
 - 3. An in-fill development area less than five (5) acres.
- (4) **Land-Locked Ponds.** In areas draining to a land-locked pond, BMPs shall be designed to maintain or reduce the existing maximum 100-year floodplain elevation of the area adjacent to the pond unless the entire 100-year floodplain lies within the owner's property. This condition may be waived if the owner obtains the legal right to increase flood elevations on all properties where the flood plain is increased due to development activities.
- (5) **Infiltration.** BMP's shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in Subsection (c)(5)d-e below:
 - a. For residential developments, one of the following shall be met:
 - 1. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least ninety percent (90%) of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent (1%) of the project site is required as an effective infiltration area.
 - 2. Infiltrate twenty-five percent (25%) of the post-development runoff from the 2-year, 24-hour design storm with a Type II distribution. Separate curve

- numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent (1%) of the project site is required as an effective infiltration area.
- b. For non-residential developments, including commercial, industrial and institutional development, one of the following shall be met:
 1. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least sixty percent (60%) of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent (2%) of the project site is required as an effective infiltration area.
 2. Infiltrate ten percent (10%) of the runoff from the 2-year, 24-hour design storm with a Type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent (2%) of the project site is required as an effective infiltration area.
 - c. Pre-development condition shall be the same.
 - d. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with Subsection (c)(3)h. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
 - e. Exclusions. Runoff from the following areas are prohibited from meeting the infiltration requirements of this Subsection (c):
 1. Areas associated with Tier **1** industrial facilities identified in NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
 2. Storage and loading areas of Tier 2 industrial facilities identified in NR 216(2)(b), Wis. Adm. Code.
 3. Fueling and vehicle maintenance areas.
 4. Areas within one thousand (1,000) feet upgradient or within one hundred (100) feet downgradient of karst features.
 5. Areas with less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this Subsection (c)(3)e.5 does not prohibit infiltration of roof runoff.

6. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five (5) feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
 7. Areas within four hundred (400) feet of a community water system well as specified in NR 811.16(4), Wis. Adm. Code, or within one hundred (100) feet of a private well as specified in NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
 8. Areas where contaminants of concern, as defined in NR 720.03(2), Wis. Adm. Code, are present in the soil through which infiltration will occur.
 9. Any area where the soil does not exhibit one (1) of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a three (3) foot soil layer with twenty percent (20%) fines or greater; or at least a five (5) foot soil layer with ten percent (10%) fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This Subsection (c)(3)e.9 does not prohibit infiltration of roof runoff.
- f. Exemptions. Infiltration of runoff from the following areas are not required to meet the infiltration requirements of this Subsection (c)(3):
1. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 2. Parking areas and access roads less than five thousand (5,000) square feet for commercial and industrial development.
 3. Redevelopment and routine maintenance areas.
 4. In-fill areas less than five (5) acres.
 5. Infiltration areas during periods when the soil on the site is frozen.
 6. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
 7. Highways provided the transportation facility is not part of a larger common plan of development or sale.
- g. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this Subsection.
- h. Infiltration systems designed in accordance with this Subsection shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with

a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable. Notwithstanding the above statements, the discharge from BMP's shall remain below the enforcement standard at the point of standards application.

(6) **Protective Areas.**

- a. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this Subsection, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location:
 1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in NR 103.04, Wis. Adm. Code: Seventy-five (75) feet.
 2. For perennial and intermittent streams identified on a United States Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current: Fifty (50) feet.
 3. For lakes: Fifty (50) feet.
 4. For highly susceptible wetlands: Fifty (50) feet. "Highly susceptible wetlands" include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with NR 103.08(1m), Wis. Adm. Code. This Subsection does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
 5. For less susceptible wetlands: Ten percent (10%) of the average wetland width, but no less than ten (10) feet nor more than thirty (30) feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
 6. In Subsections (c)(6)a.1,4 and 5, determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in NR 103.03, Wis. Adm. Code.
 7. For concentrated flow channels with drainage areas greater than one hundred thirty (130) acres: Ten (10) feet.
- b. This Subsection (c)(4) applies to post-construction sites located within a protective area, except those areas exempted pursuant to Subsection (c)(4)d below.

- c. The following requirements shall be met:
 1. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
 2. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of seventy percent (70%) or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
 3. Non-aggressive vegetative cover that is flood and drought tolerant shall be used in seeding the protective areas whenever possible.
 4. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.
 - d. Exemptions. The following areas are not required to meet the protective area requirements of this Subsection:
 1. Redevelopment post-construction sites.
 2. In-fill development areas less than five (5) acres.
 3. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 4. Structures constructed in accordance with Section 59.692(1 v), Wis. Stats.
 5. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- (7) **Swale Treatment for Transportation Facilities.** This Subsection is not applicable to transportation facilities that are part of a larger common plan of development or sale:
- a. Applicability. Except as provided in Subsection (c)(7)b, transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this Section, if the swales are designed to the maximum extent practicable to do all of the following:
 1. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
 2. Carry runoff through a swale for two hundred (200) feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for

the peak flow generated using either a 2-year, 24-hour design storm or a 2-year storm with a duration equal to the time of concentration as appropriate. If a swale of two hundred (200) feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.

- b. Exemptions. The Village Engineer may, consistent with water quality standards, require other provisions of this Section be met on a transportation facility with an average daily travel of vehicles greater than two thousand five hundred (2,500) and where the initial surface water of the state that the runoff directly enters is any of the following:
 1. An outstanding resource water.
 2. An exceptional resource water.
 3. Waters listed in Section 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.
 4. Waters where targeted performance standards are developed under NR 151.004, Wis. Adm. Code, to meet water quality standards.

(d) **General Considerations for On-Site and Off-Site Stormwater Management Measures.**

The following considerations shall be observed in managing runoff:

- (1) **Use of Natural Topography.** Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this Section.
- (2) **Emergency Overland Flow.** Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(e) **Location and Regional Treatment Options.**

- (1) **BMP Use.** The BMP's may be located on-site or off-site as part of a regional stormwater device, practice or system.
- (2) **Post-Construction BMP's.** Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this Chapter. Post-construction BMP's may be located in non-navigable surface waters.
- (3) **Post-Construction Runoff Standard.** Except as allowed under Subsection (d)(4) below, post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
- (4) **Exceptions to Post-Construction Runoff Standard.** Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this Chapter if:
 - a. The BMP was constructed prior to the effective date of this Chapter and the BMP either received a permit issued under Chapter 30, Wis. Stats., or the BMP did not require a Chapter 30, Wis. Stats., permit; and

- b. The BMP is designed to provide runoff treatment from future upland development.
- (5) **Runoff From Existing Development.** Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this Subsection:
 - a. To the maximum extent practicable, BMP's shall be located to treat runoff prior to discharge to navigable surface waters.
 - b. Post-construction BMP's for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as NR 103, Wis. Adm. Code, and Chapter 30, Wis. Stats.
- (6) **Runoff Discharge.** The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMP's is subject to this Chapter.
- (7) **Public Works Director Approval.** The Village Engineer may approve off-site management measures provided that all of the following conditions are met:
 - a. The Village Engineer determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the Village of Wheeler and that contains management requirements consistent with the purpose and intent of this Chapter.
 - b. The off-site facility meets all of the following conditions:
 - 1. The facility is in place.
 - 2. The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this Chapter.
 - 3. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
- (8) **Regional Treatment Option.** Where a regional treatment option exists such that the Village Engineer exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Village Engineer. In determining the fee for post-construction runoff, the Village Engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
- (f) **Alternate Requirements.** The Village Engineer may establish stormwater management requirements more stringent than those set forth in this Section if the Village Engineer determines that an added level of protection is needed to protect sensitive resources.

Sec. 15-3-8 Permitting Requirements, Procedures and Fees.

- (a) **Permit Required.** No responsible party may undertake a land disturbing construction activity without receiving a Stormwater Management Permit from the Village Engineer prior to commencing the proposed activity.

- (b) **Permit Application and Fees.** Unless specifically excluded by this Chapter, any responsible party desiring a permit shall submit to the Village Engineer a permit application made on a form provided by the Village of Wheeler for that purpose:
- (1) Unless otherwise excepted by this Chapter, a permit application must be accompanied by a stormwater management plan, a maintenance agreement (where required), and where not otherwise covered by a developer's agreement, a non-refundable permit administration fee.
 - (2) The stormwater management fee shall be prepared to meet the requirements of Sections 15-3-7 and 15-3-9, the maintenance agreement shall be prepared to meet the requirements of Section 15-3-10, the financial guarantee shall meet the requirements of Section 15-3-11, and fees shall be those established by the Village of Wheeler as set forth in the fee schedule on file with the Village Clerk-Treasurer.
- (c) **Review and Approval of Permit Application(s).** The Village Engineer shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
- (1) Within five (5) weeks of the receipt of a complete permit application, including all items as required by Subsection (b), the Village Engineer shall inform the applicant as to whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this Chapter.
 - (2) If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the Village Engineer shall issue the permit.
 - (3) If the stormwater permit application, plan or maintenance agreement is disapproved, the Village Engineer shall detail in writing the reasons for disapproval.
 - (4) The Village Engineer may request additional information from the applicant. If additional information is submitted, the Village Engineer shall have five (5) weeks from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - (5) Failure by the Village Engineer to inform the permit applicant of a decision within five (5) weeks of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (d) **Permit Requirements.** All permits issued under this Chapter shall be subject to the following conditions, and holders of permits issued under this Chapter shall be deemed to have accepted these conditions. The Village Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Village Engineer to suspend or revoke this permit may be appealed in accordance with Section 15-3-14:
- (1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
 - (2) The responsible party shall design and install all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan and this permit.

- (3) The responsible party shall notify the Village Engineer at least two (2) business days before commencing any work in conjunction with the stormwater management plan, and within ten (10) business days upon completion of the stormwater management practices. If required as a special condition, the responsible party shall make additional notification according to a schedule set forth by the Village Engineer so that practice installations can be inspected during construction.
- (4) Practice installations required as part of this Chapter shall be certified "as built" by a licensed professional engineer. Completed stormwater management practices must pass a final inspection by the Village Engineer or designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The Village Engineer or designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
- (5) The responsible party shall notify the Village Engineer of any significant modifications it intends to make to an approved stormwater management plan. The Village Engineer may require that the proposed modifications be submitted to it for approval prior to incorporation into the stormwater management plan and execution by the responsible party.
- (6) The responsible party shall maintain all stormwater management practices in accordance with the stormwater management plan until the practices either become the responsibility of the Village of Wheeler, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (7) The responsible party authorizes the Village Engineer to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under Subchapter VII of Ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under Section 15-3-11.
- (8) If so directed by the Village Engineer, the responsible party shall repair at the responsible party's own expense all damage to adjoining facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
- (9) The responsible party shall permit property access to the Village Engineer or designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
- (10) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Village Engineer may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public health.
- (11) The responsible party is subject to the enforcement actions and penalties detailed in Section 15-3-13, if the responsible party fails to comply with the terms of this permit.

- (e) **Permit Conditions.** Permits issued under this Subsection may include conditions established by the Village Engineer in addition to the requirements needed to meet the performance standards in Section 15-3-7 or a financial guarantee as provided for in Section 15-3-11.
- (f) **Permit Duration.** Permits issued under this Section shall be valid from the date of issuance through the date the Village notifies the responsible party that all stormwater management practices have passed the final inspection required under Subsection (d)(4). The permit shall be invalid if work is not commenced within one (1) year of permit issuance.

Sec. 15-3-9 Stormwater Management Plan.

- (a) **Plan Requirements.** The stormwater management plan required under Section 15-3-8(b) shall contain at a minimum the following information:
 - (1) **Applicant Information.** Name, address, and telephone number for the following or their designees:
 - a. Landowner;
 - b. Developer;
 - c. Project engineer for practice design and certification;
 - d. Person(s) responsible for installation of stormwater management practices; and
 - e. Person(s) responsible for maintenance of stormwater management practices prior to the transfer, if any, of maintenance responsibility to another party.
 - (2) **Description of Property Legal.** A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
 - (3) **Description of Pre-Development Site Conditions.** Pre-development site conditions, including:
 - a. One (1) or more site maps at a scale of not less than one inch equals one hundred feet (1" = 100'). The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed two (2) feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all stormwater conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the one hundred (100) year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to NR 811.16, Wis. Adm. Code.

- b. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- (4) **Description of Post-Development Site Conditions.** Post-development site conditions, including:
- a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
 - b. Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protection plans and ordinances.
 - c. One (1) or more site maps at a scale of not less than one (1) inch equals one hundred (100) feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed two (2) feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all stormwater conveyance sections; location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
 - d. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
 - e. Results of investigations of soils and groundwater required for the placement and design of stormwater management measures. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment practices.
- (5) **Description and Schedule of Installation of Practices.** A description and installation schedule for the stormwater management practices needed to meet the performance standards in Section 15-3-7.
- (6) **Maintenance Plan.** A maintenance plan developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule.

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- (7) **Cost Estimates.** Cost estimates for the construction, operation, and maintenance of each stormwater management practice.
 - (8) **Additional Information.** Other information requested in writing by the Village Engineer to determine compliance of the proposed stormwater management measures with the provisions of this Chapter.
 - (9) **Preparation by Licensed Engineer.** All site investigations, plans, designs, computations, and drawings shall be certified by a Wisconsin licensed professional engineer to be prepared in accordance with accepted engineering practices and requirements of this Chapter.
- (b) **Alternate Requirements.** The Village Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Section 15-3-7(e).

Sec. 15-3-10 Maintenance Agreement.

- (a) **Maintenance Agreement Required.** The maintenance agreement required under Section 15-3-8(b) for stormwater management practices shall be an agreement between the Village of Wheeler and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction that is binding upon all subsequent owners of the land served by the stormwater management practices.
- (b) **Agreement Provisions.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by Section 15-3-9(a)(6):
 - (1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
 - (2) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under Section 15-3-8(b).
 - (3) Identification of the responsible party, organization or unit of government responsible for long-term maintenance of the stormwater management practices identified in the stormwater management plan required under Section 15-3-8(b).
 - (4) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in Subsection (b)(2).
 - (5) Authorization for the Village Engineer or contractors to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - (6) A requirement that the Village Engineer maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the

inspection results, and to specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.

- (7) Agreement that the party designated under Subsection (b)(3), as responsible for long-term maintenance of the stormwater management practices, shall be notified by the Village of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable timeframe as set by the Village Engineer.
- (8) Authorization for the Village Engineer to perform the corrected actions identified in the inspection report if the responsible party designated under Subsection (b)(3) does not make the required corrections in the specified time period. The Village of Wheeler shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Subchapter VII of Chapter 66, Wis. Stats.

Sec. 15-3-11 Financial Guarantee.

- (a) **Establishment of the Guarantee.** The Village Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Village Engineer and/or Village Attorney. The financial guarantee shall be in an amount determined by the Village Engineer to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Village of Wheeler the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the administering authority that the requirements of this Chapter have not been met.
- (b) **Conditions for Release.** Conditions for the release of the financial guarantee are as follows:
 - (1) The Village Engineer shall release the portion of the financial guarantee established under this Section, less any costs incurred by the Village of Wheeler to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Village Engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - (2) The Village Engineer shall release the portion of the financial guarantee established under this Section to assure maintenance of stormwater practices, less any costs incurred by the Village of Wheeler, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

Sec. 15-3-12 Fee Schedule; Escrow Deposit.

(a) **Fees; Escrow Deposit.**

(1) The applicant shall pay a deposit fee to cover the actual cost to the Village of Wheeler for all engineering work and inspections incurred by the Village in connection with review of the stormwater management plan and inspections of the implementation of the plan. At the time the application is submitted, the applicant shall prepay a deposit fee. Following initial review of the plan, the Village Engineer shall estimate the total cost of the Engineer's review and inspections in connection with the review and implementation of the plan. If the amount is estimated to be more than the deposit, the Village Engineer shall require the applicant to deposit the remaining sum required by the Village Engineer's estimate in escrow with the Village Clerk-Treasurer. The Village Clerk-Treasurer shall pay bills submitted for engineering and inspection out of the funds escrowed under this Section. In the event the amount deposited with the Village Clerk-Treasurer falls below twenty-five percent (25%) of the amount required to be deposited, the Village Engineer shall require the permittee to replenish the escrow to the original amount required. Upon final acceptance of implementation of the stormwater management plan, erosion control and right-of-way repair, the amounts remaining in escrow shall be refunded to the applicant minus a ten percent (10%) administrative fee. The Village Engineer may, at his/her discretion, waive or reduce all or part of the deposit.

(2) Fees shall be paid prior to issuance of the permit if the engineering review fees have been billed by that time. If billed to the Village after issuance of the permit, the fee shall be paid within thirty (30) days of its receipt by the applicant. Failure to pay such a fee within thirty (30) days shall be grounds for revocation of the permit, issuance of a stop work order, and/or charging the cost as a special tax against the property pursuant to Sec. 66.0703, Wis. Stats., at the discretion of the Village Board.

(b) **Fees Established.** The fees referred to in other sections of this Chapter shall be established by the Village of Wheeler and may from time to time be modified by ordinance or resolution. A schedule of the fees established by the Village shall be available for review in the Village Engineer's office.

Sec. 15-3-13 Exceptions and Waivers.

(c) **General.** Where the Village Engineer finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve exceptions and waivers to these regulations so that substantial justice may be done and the public interest secured, provided the exception or waiver shall not have the effect

of nullifying the intent and purpose of these regulations; and further provided the Village Engineer shall not approve exceptions and waivers unless they shall make findings based upon the evidence presented to them that all of the following conditions are met by the petitioner:

- (1) The granting of the exception or waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;
 - (2) The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;
 - (3) Because of the location or conditions affecting the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
 - (4) The relief sought will not materially alter the provisions of any existing regional stormwater management plan except that this document may be amended in the manner as prescribed by law.
 - (5) The granting of the exception or waiver will not result in a violation of State or Federal laws or permits.
- (d) **Conditions.** In approving exceptions or waivers, the Village Engineer may require such conditions as will in his/her judgment secure substantially the purposes described in this Chapter and accompanying written stormwater management and erosion control requirements.
- (e) **Procedures.** A petition for an exception or waiver shall be submitted in writing by the responsible party at the time when the development is filed for the consideration of the Village Engineer. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

Sec. 15-3-14 Inspections and Enforcement.

- (a) **State Inspections.** The Village Engineer, Building Inspector, or designees may access the site periodically to inspect stormwater management practices and facilities to evaluate compliance with the approved stormwater management plan.
- (b) **Enforcement.** Any land disturbing construction activity or post-construction runoff initiated after the original effective date of this Chapter by any person, firm, association, or corporation subject to this Chapter's provisions shall be deemed a violation unless conducted in accordance with the requirements of this Chapter.
- (c) **Non-Compliance Notification.** The Village Engineer shall notify the responsible party by U.S. mail or email of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (d) **Corrective Work Upon Notification.** Upon receipt of written notification from the Village Engineer under Subsection (b), the responsible party shall correct work that does not comply with the stormwater management plan or other provisions of this permit. The

responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Village Engineer in the notice.

- (e) **Intervention by Village Engineer.** If the violations to a permit issued pursuant to the Chapter are likely to result in damage to properties, public facilities, or waters of the state, the Village Engineer may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Village Engineer plus interest and legal costs shall be billed to the responsible party.
- (f) **Stop Work Orders.** The Village Engineer is authorized to post a stop work order on all land disturbing construction activity that is in violation of this Chapter, or to request the Village Attorney to obtain a cease and desist order in any court with jurisdiction.
- (g) **Permit Revocation.** The Village Engineer may revoke a permit issued under this Chapter for non-compliance with ordinance provisions.
- (h) **Validity of Revocation Actions.** Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Village Engineer or by a court with jurisdiction.
- (i) **Legal Proceedings.** The Village Engineer is authorized to refer any violation of this Chapter, or of a stop work order or cease and desist order issued pursuant to this Chapter, to the Village Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- U) **Penalties.** Any person, firm, association, or corporation who does not comply with the provisions of this Chapter shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars (\$500.00) per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (k) **Injunctive Relief.** Compliance with the provisions of this Chapter may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (l) **Violations Inspections.** When the Village Engineer determines that the holder of a permit issued pursuant to this Chapter has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the Village Engineer or a party designated by the Village Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Village Engineer shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to Section 15-3-11. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

Sec. 15-3-15 Appeals.

- (a) **Appellate Body.** The Village Board, created pursuant to the Village of Wheeler Code of Ordinances, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village Engineer in administering this Chapter. The Village Board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the Village Board may authorize variances from the provisions of this Chapter that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the Chapter will result in unnecessary hardship.
- (b) **Who May Appeal.** Appeals to the Village Board may be taken by any aggrieved person or by an officer, department, board, or bureau of the Village of Wheeler affected by any decision of the Village Engineer.

Sec. 15-3-16 Limitations on Village Responsibility.

Nothing in this Chapter creates or imposes, nor shall be construed to create or impose, any greater obligation or responsibility on the Village of Wheeler, which has adopted this Chapter, than those minimum requirements specifically required by the Wisconsin Statutes and Wisconsin Department of Natural Resources regulations.

Title 15 ► Chapter 4

Minimum Housing & Property Maintenance Code

15-4-1	Title
15-4-2	Intent and Purpose
15-4-3	Rules of Interpretation and Definitions
15-4-4	Maintenance of exterior Landscaping
15-4-5	Minimum Standards for Basic Equipment, Lighting, Ventilation, Heating and Electrical Service
15-4-6	Safe and Sanitary Maintenance of Property
15-4-7	Conditions of Occupancy and Use of Space in Residential Buildings
15-4-8	Vacant Buildings
15-4-9	Responsibilities of Residential Owners, Operators, and Occupants
15-4-10	Inspections
15-4-11	Designation of Unfit Dwellings and Legal Procedure Therefor
15-4-12	Enforcement; Service of Notices and Orders; Hearings
15-4-13	Residential Rental Contact Registration
15-4-14	Penalties

Sec. 15-4-1 Title.

This Chapter shall be known as the Village of Wheeler Minimum Housing and Property Maintenance Code.

Sec. 15-4-2 Intent and Purpose.

(a) **Purpose.**

- (1) **General Purposes.** This Chapter is adopted for the purpose of ensuring and promoting the public health, and general welfare of the people of the Village of Wheeler and its environs. This includes, but is not limited to, safety, health, sanitation, aesthetic, and property valuation public policy objectives.
- (2) **Statutory Authority; Other Applicable Standards and Regulations.** This Chapter is enacted pursuant to the general police powers conferred on municipalities by the

Wisconsin Statutes and applies to all structures and premises in the Village of Wheeler. The provisions of this Chapter shall not limit the authority of the Village or other applicable jurisdictions to abate problems on improperly maintained and/or unsafe or unfit structures or premises pursuant to other applicable laws and ordinances.

- (3) **Recognition of Public Health, Safety and General Welfare Issues.** It is recognized that there presently exists, or may exist in the future, residential buildings and dwelling units (owner-occupied and rental properties), non-residential structures, yards or vacant areas, and combinations thereof, which are so dilapidated, neglected, unsafe, dangerous, unhygienic, inadequately maintained or lacking in basic equipment or facilities, light, ventilation, and heating so as to be detrimental to the health, safety, and general welfare of the people of the Village of Wheeler, or to the economic values of area properties.
 - (4) **Interpretation.** The provisions of this Chapter shall be reasonably and liberally construed to be an exercise of police powers intended to maintain a safe and healthful environment within the Village of Wheeler.
- (b) **Scope; Conflict of Regulations.**
- (1) **Scope.** This Chapter shall pertain to all structures and buildings, and associated surrounding outside premises, in the Village of Wheeler, with certain provisions specifically applicable to residential dwellings and dwelling units, including, but not limited to, single-family residential dwellings and rental dwelling units.
 - (2) **Conflict of Regulations.** The provisions of this Chapter, and other property maintenance regulations in this Code of Ordinances, and the standards herein are minimum standards. In situations where a provision of this Chapter is in conflict with another provision of this Code of Ordinances or a state regulation, the provision which establishes the higher or more restrictive standard for the protection of the public health, safety and welfare shall take precedence and be complied with.
 - (3) **New Construction Exception.** The provisions of this Chapter shall not apply to the construction of new buildings, which are subject to other local and state regulations.
- (c) **Responsibility.** The responsible person or party, as defined herein, shall maintain their structure(s), building(s) and property in accordance with this Chapter. A responsible party shall not occupy, or permit another person to occupy, a structure, building or premises that does not comply with the provisions of this Chapter. Occupants, including owner occupants and tenants, of a structure, building or premises are responsible for caring for and maintaining that part of the structure or premises that they occupy or control. All responsible persons and parties shall be jointly and severally responsible for securing compliance of their structure or premises with this Chapter.
- (d) **Validity of Prior Regulations.** Equipment, systems, and safeguards required by a previous state regulation, local ordinance or code effective when a structure was constructed or lawfully altered shall be maintained in good repair and working order. The requirements

of this Chapter are not intended to provide the basis for removal or abrogation of fire protection or safety systems in good repair and working order.

- (e) **Historic Buildings.** The provisions of this Chapter shall apply to structures designated and as allowed as federal, state or local government-designated historic structures. However, any construction work performed on such historic structures shall also comply with appropriate Village zoning, building code and historic preservation ordinances and the requirements of the Wisconsin Administrative Code and Wisconsin Statutes, including, but not limited to, the Uniform Dwelling Code and Sec. 101.121, Wis. Stats.
- (f) **Referenced Statutes, Ordinances, Codes and Standards.** The Statutes, Ordinances, Codes and standards referenced in this Chapter shall be incorporated herein by reference and be a part of the requirements of this Chapter to the prescribed extent of each such reference, and include amendments, renumbering and successor acts.
- (g) **Requirements Not Covered By This Chapter.** The requirements necessary for the strength, stability, or proper functioning of an existing structure or equipment, or for the public safety, health and general welfare, not specifically covered by this Chapter, shall be determined by the Village Board, with a recommendation from the appropriate Village enforcement official, subject to a right of appeal to the Zoning Board of Appeals.

Cross-Reference: Title 11, Chapter 6, Public Nuisances and Section 10-5-8 Junked Vehicles and Appliances on Private Property

Sec. 15-4-3 Rules of Interpretation and Definitions.

- (a) **Rules of Interpretation.** In the construction and interpretation of this Chapter, the rules and definitions contained in this Section shall be observed and applied, except when the context clearly indicates otherwise:
 - (1) Words used in the present tense shall include the future.
 - (2) Words used in the singular number shall include the plural number, and the plural the singular.
 - (3) The word "shall" is mandatory and not discretionary.
 - (4) The word "may" is permissive.
 - (5) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (b) **Definitions.** The following definitions shall be applicable in this Chapter:
 - (1) **Accesory Building.** A detached building or structure on the same lot, with and of a nature customarily incidental and subordinate to the principal building or structure or use of the land; i.e., garden shed, greenhouse, garage, storage shed, fence, retaining wall, etc.
 - (2) **Adequate.** Shall mean adequate as determined by the Building Inspector or other designated Village official under the regulations and standards of this Chapter or

adequate as determined by an authority designated by law or this Code of Ordinances. "Adequately" shall mean the same as "adequate."

- (3) **Apartment.** One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities arranged for use by one (1) family.
- (4) **Approved.** Approved by the Building Inspector as being in accordance with the regulations of this Chapter, or approved by an authority designated by law, this Chapter, or this Code of Ordinances.
- (5) **Attractive Appearance.** An appearance which is in accordance with generally accepted professional practices for new construction within the Village of Wheeler and which is not likely to adversely affect the values of abutting or neighborhood properties, or of the principal property.
- (6) **Basement.** A portion of a building located partly or wholly underground and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.
- (7) **Bath.** A bathtub or shower stall properly connected with both hot and cold water lines.
- (8) **Bathroom.** A non-habitable room with a dwelling unit which is used, or intended to be used, primarily for bathing and/or toilet purposes, and which contains a toilet, bathtub or shower facilities.
- (9) **Bedroom.** A habitable room within a dwelling unit which is used, or intended to be used, primarily for the purpose of sleeping, but shall not include any kitchen or dining room. "Bedroom", however, shall not be interpreted so as to prohibit efficiency apartments.
- (10) **Boarding House.** See "Rooming House" and "Rooming Unit."
- (11) **Building.** Any structure used or intended for supporting or sheltering any use or occupancy. For multi-unit structures, each non-residential unit is deemed a separate "building" subject subject to this Chapter; in multi-unit structures, individual residential units are to be considered a part of the larger building that encompasses the other residential units.
- (12) **Communal.** Used or shared by, or intended to be used or shared by, the occupants of two (2) or more rooming units or two (2) or more dwelling units.
- (13) **Compliance Inspection.** An inspection performed in conjunction with a lawful order of the Village Board, Village Clerk-Treasurer, Zoning Administrator, Building Inspector, Fire Inspector, law enforcement officer, or public health authorities, or designee, for the purpose of verifying the fulfillment of an official requirement listed in a compliance order.
- (14) **Deadbolt Locking Device.** Any keyed, mortised lockset with at least a 3/4 inch bolt capable of being opened from the inside by a single turn of a knob.
- (15) **Dwe/1/ng.** A place of abode, a residence, or a house for use by one (1) or more persons, excluding hotels or motels.

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- (16) **Dwelling Unit.** One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities arranged and intended for use by one (1) family.
- (17) **Extermination.** The control or elimination of insects, rodents or other pests by eliminating harboring places and removing or making inaccessible materials that may serve as food, and by poisoning, spraying, trapping, fumigation by a licensed fumigator or any other effective elimination procedure.
- (18) **Exterior Premises.** The open spaces on the premises or the portion of the premises upon which there is not a structure.
- (19) **Family.** An individual, or two (2) or more persons related by blood, marriage, or legal adoption, living together as a single housekeeping unit in a dwelling unit, including foster children, and not more than two (2) roomers. For the purpose of this Subsection, "children" means natural or legally adopted children, or a ward as determined in a legal guardianship proceeding. Up to two (2) personal attendants who provide services for family members or roomers who, because of advanced age or physical or mental disability, need assistance with activities of daily living, shall be considered part of the "family." Such services may include personal care, housekeeping, meal preparation, laundry or companionship.
- (20) **Friable Material.** Any material applied on ceilings, walls, structural members, piping, duct work, or any other part of a building which when dry may be crumbled, pulverized, or reduced to powder by hand pressure. The term includes non-friable material after such previously non-friable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.
- (21) **Garbage.** The animal and vegetable waste resulting from the preparation, handling, cooking and consumption of food.
- (22) **Good Repair.** Free from blighting and hazardous conditions, clean and sanitary, in a safe condition and meeting applicable building codes.
- (23) **Good Working Condition.** Capable of performing the task for which it was designed and in the manner intended by this Chapter.
- (24) **Habitable Space.** One (1) or more rooms or enclosed floor area in a dwelling used or intended to be used, for living, cooking, sleeping, or dining purposes, excluding bathrooms, foyers, pantries, laundries, closets and storage spaces.
- (25) **Imminent Hazard.** A condition which could cause serious or life-threatening injury or death at any time.
- (26) **Impervious to Water.** Constructed of concrete, cement block, terrazzo, brick, tile, or other material approved by the Building Inspector, or designee, and having tight-fitting joints.
- (27) **Infestation.** The sustained presence of detrimental household insects, vermin, rodents or other pests within a dwelling or on the dwelling premises.
- (28) **Inoperable or Nuisance Vehicle.** Any inoperable, unlicensed, unroadworthy, disassembled or wrecked motorized or unmotorized vehicle or trailer in violation of Section 10-5-8 of this Code of Ordinances.

- (29) **Kitchen.** A habitable room or area used or intended to be used for cooking or the preparation of meals.
- (30) **Living Room.** A room used primarily for living, dining, recreational or cooking purposes.
- (31) **Mixed Occupancy.** Occupancy of a building in part for residential use and in part for some other use not accessory thereto. An example would be a building with commercial retail space on the first floor and apartments on the second floor.
- (32) **Nuisance.** For purposes of this Chapter, shall be defined as follows:
- a. Whatever is dangerous to human life or safety, or is detrimental to health.
 - b. Insufficient ventilation or illumination.
 - c. An attractive nuisance which may be detrimental to children, whether in a building or upon a lot. An attractive nuisance includes, but is not limited to: any abandoned shafts, wells or basements; unprotected basements and excavations; inoperable motor vehicles; structurally unsound structures; or trash, refuse, garbage, lumber, construction debris or vegetation which may prove a hazard for inquisitive minors.
 - d. Inadequate or unsanitary sewerage or plumbing facilities.
 - e. Unsafe or dangerous electrical wiring or natural gas lines.
 - f. Uncleanliness.
 - g. Whatever renders air, food or drink unwholesome or is detrimental to the health of humans.
 - h. Deteriorated, dilapidated or blighted to the extent that doors, windows, plumbing or heating fixtures or appurtenances of the building are damaged or removed.
 - i. As also defined in Sections 8-1-2, 8-1-5, 8-1-6, 8-1-8, 10-5-8 and 11-6-2 of this Code of Ordinances, whichever is more restrictive.
- (33) **Occupant.** Any person living, sleeping or eating in, or having actual possession of a dwelling or dwelling/rooming unit.
- (34) **Occupied.** A building is occupied when it is open to the public, when a business activity is performed therein, when people reside therein, or when any personal property is moved therein. Any building or structure shall be deemed to be occupied if one (1) or more persons actually conducts a lawful business or resides in all or any part of the building, or as the legal or equitable owner/occupant(s) or tenant(s) on a non-transient basis, or any combination of the same. For purposes of this Chapter, evidence offered to prove that a building is occupied may include, but not be limited to, the regular receipt of mail delivery through the U.S. Postal Service; proof of continual cable television, internet, electricity, natural gas, water and sewer service to the property.
- (35) **Operator.** Any person who has charge or control of a building or part thereof in which dwelling units or rooming rooms are located or let.
- (36) **Owner.** Every person, partnership, limited partnership, corporation, service corporation, limited liability corporation or partnership, or other legally-recognized entity or association, who alone or jointly or severally with others:

- a. Has legal title to a building or structure;
 - b. Has legal right or obligation to the care, charge, or control of any building or structure, in any capacity including, but not limited to, agent; executor, administrator, trustee, guardian, or personal representative of the estate of the holder of legal title; or an agent, trustee, receiver or other person appointed by court order with authority to have possession or control of the building or structure;
 - c. Is a mortgagee, where either:
 1. The mortgagee has obtained a judgment of foreclosure against the mortgagor with regard to the premises containing the occupied or vacant building or structure;
 2. The mortgage or note secured by the mortgage contains a provision authorizing the mortgagee to act to secure or repair the property of the mortgagor, and the mortgagor no longer maintains the occupied or vacant building or structure; or
 - d. Is a land contract vendor, where either:
 1. The land contract vendor has obtained a judgment of foreclosure against the land contract vendee with regard to the premises containing the occupied or vacant; or
 2. The land contract contains a provision authorizing the land contract vendor to act to secure or repair the property of the vendee, and the vendee no longer maintains the occupied or vacant building or structure.
 - e. "Owner" does not include any person whose legal or equitable interest in the building is a security interest derived solely from the extension of credit to permit construction or remodeling of the dwelling or purchase of the dwelling by a third party.
 - f. "Owner" does not include any real estate licensee providing brokerage services in accordance with Ch. 452, Wis. Stats.
- (37) **Partially Vacant.** A multi-story building or structure that has one (1) or more stories or suites.
- (38) **Person.** Any individual, firm, corporation, limited liability corporation, association, or partnership.
- (39) **Plumbing.** Shall mean and include the following: all piping, fixtures, appliances, equipment, devices and appurtenances in connection with the water supply, water distribution and drainage systems, including hot water storage tanks, water softeners and water heaters connected with such water and drainage systems, and also includes the installation thereof or a water pressure system other than the municipal system as provided in Ch. 144, Wis. Stats.
- (40) **Premises.** A lot together with all buildings and structures thereon.
- (41) **Properly.** As deemed proper by the Building Inspector under the regulations of this Chapter or deemed proper by an authority designated by law or this Chapter.

- (42) **Provided.** Furnished, supplied, paid for or under control of the owner.
- (43) **Resident/a/ Building.** A building which is arranged, designed, used, or intended to be used for residential occupancy by one (1) or more families, tenants or lodgers, and which includes, but is not limited to, the following types:
 - a. Single-family dwellings.
 - b. Two (2) family dwellings.
 - c. Multiple-family dwellings (including apartment hotels).
 - d. Rooming houses.
 - e. Any building containing any of the above uses together with other uses shall be considered a residential building.
- (44) **Responsible Person.** Within the scope of this Chapter, the "responsible person or party" is the owner of record of a property or premises according to the County land records system or the operator or manager of any structure or premises.
- (45) **Room.** A partitioned part of the inside of a building. For the purposes of this definition, partition shall mean something that divides interior space, especially an interior dividing wall. A wall is one of the sides of a room or building connecting floor and ceiling and may also include anything which encloses or separates space. A partition or wall which intrudes into the space by more than one-third (1/3) of the least dimension of an existing room may be regarded as creating an additional separate room. The partitioned space shall be considered as a room if privacy is implied; light and ventilation are affected; or a bedroom through a bedroom, bathroom through a bedroom or bedroom through a bathroom situation is created.
- (46) **Roomer.** An occupant of a rooming house who is not a member of the family of the operator of that rooming house, or an occupant of a dwelling unit who is not a member of the family occupying the dwelling unit.
- (47) **Rooming House.** Any dwelling, or that part of any dwelling, containing one (1) or more rooming units, in which space is let by the owner or operator to more than four (4) roomers.
- (48) **Rooming Unit.** Any room or group of rooms forming a single habitable unit in a rooming house used or intended to be used for living and/or operator to more than four (4) roomers.
- (49) **Rubbish.** Combustible and noncombustible waste materials, except garbage. The term shall include the residue from the burning of wood, coal, and other combustible materials, paper, rags, cartons, boxes, wood, rubber, leather, yard trimmings, metal containers, glass, crockery, and dust and other similar materials.
- (50) **Secured.** A building that has a permanent door or window in each appropriate building opening that is secured to prevent unauthorized entry and has all of its door and window components, including frames, jambs, rails, stiles, muntins, mullions, panels, sashes, and panels intact and unbroken.
- (51) **Sleeping Room.** A room used for sleeping purposes.

- (52) **Structure.** Anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground.
 - (53) **Structure Unfit for Occupancy.** An unsafe structure; or a structure which is unfit for habitation or occupancy because of the extent to which the structure is dilapidated, in disrepair or lacks proper maintenance, or a structure which is unsanitary, vermin-infested, is filthy or contaminated, is unsafe, or which lacks adequate ventilation, illumination, sanitary or heating facilities, or other essential equipment required by this Chapter.
 - (54) **Supplied.** Furnished, provided by, or under the control of the owner or operator.
 - (55) **Unsafe Structure.** A structure that endangers safety for reason that it is in imminent danger of failure or collapse, or a portion of the building has failed or collapsed, or the structure is in a condition of decay or dilapidation.
 - (56) **Vacant.** A building or structure shall be deemed to be vacant if no person or persons currently conducts a business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s), tenant-occupant(s), owner-occupant(s) or tenant(s) on a non-transient basis. Vacant status is determined from a totality of circumstances. For purposes of this Chapter only, rebuttable evidence of vacancy include, but is not limited to, low or no utility usage, lack of customary furnishing consistent with occupancy, accumulation of mail or delivered packages, and fixtures or window coverings which are not secured.
 - (57) **Waste.** Garbage, ashes, rubbish and trash, but not construction materials or soil.
 - (58) **Weeds.** Those weeds as set forth in Sec. 23.235, Wis. Stats., and Title 8, Chapter 1 of this Code of Ordinances.
 - (59) **Workmanlike.** Work of such character so as to meet manufacturer's specifications, accepted national/state standards or recognized trade practices, and intended to provide a durable result ensuring public safety, health and welfare insofar as they are affected by building construction, use and occupancy.
- (c) **Terms Not Defined.** Where terms are not defined herein, such terms shall have ordinarily accepted meanings, such as the context indicates.

Sec. 15-4-4 Maintenance of Exterior Landscaping.

- (a) **Attractive, Safe and Sanitary Exterior Property Areas.** All exterior property and landscaping areas shall be maintained in an attractive, safe and sanitary condition, free from any accumulation of rubbish, brush, unused construction materials, recyclables or other refuse as required by Section 10-5-8 and this Chapter. Landscape vegetation and plantings shall be reasonably maintained and not be excessively overgrown.
- (b) **Vegetation and Landscaping.** Vegetation and landscaping shall present an attractive appearance with generally accepted practices and as follows:

- (1) **Noxious and Nuisance Weeds.** Noxious and nuisance weeds are defined in Secs. 23.235 and 66.0407, Wis. Stats., and Section 8-1-4 of this Code of Ordinances, and shall be abated pursuant to the requirements of those regulations.
- (2) **Prohibited and Restricted Invasive Species.** Per the requirements of NR 40, Wis. Adm. Code, the listed prohibited invasive species, or terrestrial plants not currently found in Wisconsin with the exception of small pioneer stands, are prohibited. They shall be eradicated from properties and may not be transported, possessed, transferred (including sale), or introduced. A property owner may be required to remove such invasive plants pursuant to NR 40, Wis. Adm. Code.
- (3) **Excessive Length of Lawns and Grasses.**
 - a. The Village Board finds that lawns and grasses on residential, commercial and industrial parcels exceeding the height standards of this Code of Ordinances adversely affect the public health and safety of the public in that they tend to emit pollen and other particulate plant matter, constitute a fire hazard, and may pose a safety and sanitation problem in that hazardous debris may be hidden in the grass and rodents or other vermin may be drawn to and inhabit such overgrown areas.
 - b. All exterior property areas shall be kept free from noxious weeds and excessive growth of vegetation and grasses as required by Sections 8-1-4, 8-1-5 and 8-1-6 of this Code of Ordinances and the Wisconsin Statutes. Where required weed and grass cutting is not performed by the property owner after issuance of a compliance notice, the Village or designee shall perform said weed and grass cutting pursuant to Sections 8-1-4, 8-1-5 and 8-1-6, and process the charge therefor as a special charge against the benefitted property.
- (4) **Natural Lawns.** Natural or prairie lawns shall comply with the standards of Section 8-1-5 of this Code of Ordinances.
- (5) **Excessive or Improperly Placed Vegetation Affecting Drainageways.** Excessive vegetation or improperly planted vegetation which improperly impedes the proper functioning of a drainage swale or ditch shall be removed when so ordered by the Village.
- (6) **Hazardous Vegetation and Plantings.** No person shall maintain, plant, or permit to remain on any private property plantings, trees and vegetation which negatively present a hazard to structures, persons or vehicles; violate intersection vision clearance standards of Section 13-1-120 and/or the visibility or utility of public infrastructure. It shall be unlawful for any person to plant, allow to grow, or maintain any trees, bushes, shrubbery, or vegetation of any kind which is an obstruction to the clear and complete visions of any traffic sign, sidewalk, or driveway approach to a Village street, and the same shall be removed upon order from the Village. The standards of Title 6, Chapter 4 of this Code of Ordinances regarding trees shall be complied with.
- (7) **Brush Piles.** Piles of brush (tree branches, yard waste, etc.), downed trees, and removed stumps shall not be allowed to accumulate and/or be stored on parcels of

residentially-zoned land for more than thirty (30) days. Such brush piles may harbor vermin, present a fire or safety hazard, and block access by emergency personnel and equipment to the property and neighboring parcels.

Sec. 15-4-5 Minimum Standards for Basic Equipment, Lighting, Ventilation, Heating and Electrical Service.

- (a) **Purpose.** The purpose of this Section is to establish minimum standards for basic equipment, lighting, ventilation, plumbing, and electrical services for habitable residential buildings and parts thereof to safeguard the public health and safety, promote sanitation, and to obtain the public and private benefits accruing from the provision of such services. A suitable environment for safe and healthy living is encouraged and fostered by having available: adequate water and sanitary facilities; proper storage; proper removal of garbage, recyclables and other refuse; safe means of ingress/egress and ventilation; and adequate provision of light, air, heat, and electrical service.
- (b) **Minimum Standards.** No person shall occupy as owner or let to another for occupancy any space in a residential building or dwelling unit for the purpose of living, sleeping, cooking, or eating therein which does not comply with the following requirements:
- (1) **Basic Plumbing Requirements.**
- a. Every dwelling unit shall contain a properly functioning kitchen sink, a water flush toilet, a lavatory basin, and a bathtub or shower, all in good working condition and properly connected to hot and cold water lines and to an approved water and sewer system.
 - b. The water flush toilet, bathtub or shower, and lavatory basin shall be contained within a separate room, irrespective of the sink required as part of the kitchen facility. The kitchen sink shall be located in the room in which food is cooked or prepared.
 - c. The room wherein the toilet and bathtub or shower required under this Section are installed shall afford privacy to a person within. The bathtub or shower may be in a room separate from the room housing the toilet and lavatory basin, but shall afford privacy to a person within.
 - d. Plumbing systems shall be maintained in a sanitary and functional condition. Leaking pipes or broken fixtures shall be considered unsanitary.
- (2) **Water Supply.**
- a. Every required kitchen sink, lavatory basin, bathtub and shower shall be properly connected with both hot and cold potable water, and every flush toilet shall be properly connected to a supply of water adequate in volume and pressure for flushing purposes.
 - b. Water pressure shall be available at all fixtures as specified in the Wisconsin Administrative Code.

- (3) **Water Heating Facilities.** Every residential building shall have supplied water heating facilities which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water lines required hereunder and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at any required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred twenty (120°) degrees Fahrenheit.
- (4) **Refuse and Garbage Receptacles and Storage.** Each owner of any residential building shall be responsible for ensuring that every dwelling unit is provided with garbage/refuse receptacles large enough to store garbage, refuse and recyclable materials generated by that residential unit. Such receptacles shall be maintained in serviceable condition and comply with the standards established by the Village and/or its designated collection service, specifically, but not limited to: Title 8, Chapter 3 "Refuse Collection and Recycling" of this Code of Ordinances.
- (5) **Ingress/Egress In One- and Two-Family Dwellings; Stairways; Multi-Family Dwellings.**
 - a. Every one- and two-family dwelling unit and rooming unit shall have direct access to at least two (2) accessible unobstructed means of egress/ingress leading to a safe and open public street, alley, or court connected to a street. Exterior stairways or exit platforms, or a combination thereof, are permitted as second exits, provided the platform or stairways terminate at a point not more than ten (10) feet above the grade directly below the lowest platform.
 - b. All stairs in one and two-family dwellings shall terminate at grade or a platform. Platforms shall have a minimum area of fourteen (14) square feet with a minimum dimension of three (3) feet in depth. All stairways and platforms shall be protected with handrails and guardrails as specified in SPS 321.04, Wis. Adm. Code, and shall be equipped with treads and risers reasonably uniform. Guardrails in place at the time of the adoption of this Chapter are not required to be replaced until such time as the guardrails are:
 1. Not in a sound structural condition;
 2. Deteriorated;
 3. No longer functional; or
 4. Unsafe.
 - c. Stairways and porches in multi-family dwellings shall comply with the appropriate provisions of the Wisconsin Uniform Dwelling Code, as may be amended from time to time.
 - d. Every inside and outside stairway, porch, guardrail and appurtenance thereto shall be so constructed and maintained as to be safe to use and capable of supporting the load that normal use would be caused to be placed thereon, and shall be kept in good repair and in sound condition. Stairways shall be kept free of refuse or stored material which could pose a threat to the safety of users.

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- (6) **Rooming House Plumbing.**
- a. Each rooming house shall provide at least one (1) water flush toilet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition for each seven (7) persons or fraction thereof residing therein, including members of the operator's family wherever they share the use of said facilities.
 - b. All such rooming house facilities shall be located on the floor occupied by persons sharing such facilities or the floor directly above or below and shall be accessible from a common hall or passageway. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.
- (7) **Natural Gas Ranges.** When used or provided in any dwelling unit, natural gas or LP gas ranges, ovens and oven/range combination units of any such type shall be installed, maintained and operated in a safe and non-hazardous manner, pursuant to any state or national codes and regulations and the manufacturer's specifications. If such an appliance is determined to be unsafe, no person shall use, or permit others to use, the appliance until all appropriate repairs have been made.
- (8) **Smoke Detector Alarms; Carbon Monoxide Detector Alarms.**
- a. All occupied or vacant dwelling units shall be provided with a functioning, listed and labeled smoke detector alarm in the basement and on each floor of the dwelling, excluding the attic, garage and storage areas of said dwellings, as required by Sec. 101.645, Wis. Stats., and SPS 328.03, Wis. Adm. Code. Alarms shall be certified by Underwriters Laboratories.
 - b. Smoke detector alarms may be separate or combination units powered by batteries, except in the case of new dwellings constructed after June 1, 1980, smoke detectors shall be directly powered by the dwelling's electrical system, with battery backup power.
 - c. Owners are responsible for smoke detector and carbon monoxide alarm installations and battery replacement as necessary. Tenants shall be responsible for notifying the owner in writing of any smoke detector or carbon monoxide alarm malfunction, including the need to replace batteries. Owners shall repair or replace a smoke detector or carbon monoxide alarm within five (5) days of written notice from a tenant or an inspector. The property owner shall, at a minimum, replace the battery of each detector at the beginning of a new lease or tenancy, or on an annual basis, whichever is sooner. The owner shall provide the tenant at the start of a new lease or tenancy written notice of the responsibilities of the tenant and the obligations of the owner regarding smoke detector and carbon monoxide alarms, including maintenance and battery replacement.
 - d. All residential structures, new and existing, shall have functioning carbon monoxide detectors on every floor near sleeping areas, as required by SPS 321 and SPS 326, Wis. Adm. Code and Sec. 101.647, Wis. Stats. Newly constructed

dwelling shall have carbon monoxide detectors which are directly powered by the dwelling's electrical service; owners of existing homes may install battery-powered or plug-in detectors. Owners of multi-family dwellings shall comply with the rules for alarms in the Wisconsin Commercial Building Code as prescribed in SPS 361-366, Wis. Adm. Code, specifically SPS 362.1200, Wis. Adm. Code.

- e. A person may apply for a waiver to smoke detector and carbon monoxide alarm requirements provided the standards of Sec. 101.648, Wis. Stats., can be met.

(9) **Windows, Doors and Ventilation.**

- a. Every living, sleeping, kitchen or bathroom shall have available natural light and ventilation complying with Sec. SPS 321.05, Wis. Adm. Code, as dictated by the occupancy of the building. Generally every habitable room shall be provided with openable door and/or window areas equal to a minimum of four percent (4%) of the floor area, except mechanical ventilation can be provided in a kitchen in lieu of doors/windows when the ventilation system is designed and installed according to accepted engineering practices or manufacturer's specifications.
- b. Exhaust ventilation shall be installed in all toilet rooms, except those having only one (1) fixture [toilet or one (1) urinal] and in which the window area is greater than four (4) square feet and more than two (2) square feet is openable directly to the exterior of the building. The volume of air exhausted shall not be less than two (2) cubic feet per minute per square foot of floor area.
- c. All doors and windows openable directly to the outside shall be properly screened with unorn screens in serviceable condition.
- d. Existing habitable rooms without openable windows shall be provided with a mechanical ventilation system producing one (1) air change per hour. All required exhaust vents shall terminate outside the structure.
- e. Exterior entry/exit doors shall be of a solid construction, designed to function as a door, and capable of providing security with a locking device.
- f. In providing natural lighting, every habitable room shall be provided with window areas equal to at least eight percent (8%) of the floor area.
- g. All openings to a residential building which might provide an entry for rodents shall be effectively protected at all times so as to prevent rodent entry.

(10) **Electrical Service.**

- a. Every dwelling unit and all public and common areas in multiple dwellings shall be supplied with electrical service, outlets, and fixtures which shall be properly installed, maintained in good and safe working conditions, and be connected to a source of electric power in a manner prescribed by the Wisconsin Electrical Code or in this Subsection, whichever is more restrictive.
- b. Every habitable room shall contain a minimum of two (2) separate wall electric convenience outlets or one (1) such wall convenience outlet and one (1) ceiling-type or wall-type electric fixture.

- c. Every toilet compartment, furnace room, laundry room, and public hall shall contain a minimum of one (1) ceiling or wall-type electric fixture. Every bathroom shall contain one (1) wall electric convenience outlet or one (1) wall or ceiling light fixture.
- d. In every building containing two (2) or more dwelling units using the same corridors and stairways, adequate lighting shall be provided in such corridors and stairways when needed, by the following means:
 - 1. Corridor light switches: Conveniently located light switches.
 - 2. Stairway light switches: At least the equivalent of a three-way light switch system located at the bottom and top of all stairways.
 - 3. Any automatic type of operation which will maintain adequate lighting at all times, either natural or artificial.
- e. Exterior lighting shall be required to illuminate exterior entry/exit steps leading to dwelling units.
- f. All cords and temporary wiring not in compliance with NEC Article 400-A, and all exposed abandoned wiring, shall be removed immediately upon the direction of the Building Inspector or Fire Inspector.
- g. Electrical service panels shall be readily accessible to all occupants in a dwelling without passing through another dwelling unit, as required by the Wisconsin Electrical Code

(11) **Heating.**

- a. Every dwelling shall have heating equipment which is capable of adequately and safely heating all habitable rooms and bathrooms to a minimum temperature of sixty-five (65°) degrees Fahrenheit when the outdoor temperature is (0°) degrees Fahrenheit, absent the wind-chill factor, and a minimum temperature of sixty (60°) degrees Fahrenheit shall be maintained in all habitable rooms and bathrooms when the outdoor temperature is zero (0°) degrees Fahrenheit or lower, absent the wind-chill factor. The outdoor temperature for the Village for compliance purposes shall be the temperature as reported by the National Weather Service.
- b. The occupant of a room or an apartment may voluntarily maintain a lesser temperature than is specified above as long as it does not affect the temperature in other habitable residential areas of the building and the heating equipment is capable to maintaining the required levels of warmth.

(12) **Lighting.**

- a. Illumination shall be provided at all intersections of passageways, at all exits, and at the head, foot, and landings of every stairway in all buildings accommodating transients, three (3) or more apartments, and rooming houses. The illumination shall be provided during a period one (1) hour before sunset to one (1) hour after sunrise.

- b. Every residential building that will accommodate transients, three (3) or more families, or twenty (20) persons shall have lights at the emergency exit doors or other places as may be necessary to direct an occupant to the exit doorways. The lights shall be red and accompanied by a sign bearing the word "EXIT" in plain letters five (5) inches high, or a red illuminated translucent exit sign may be employed on the premises.
- (13) **Emergency Work Contact Information.** Every owner of a multi-family dwelling shall make available to the occupants the names of two (2) or more persons that may be called to arrange for emergency work. Such names, with their telephone numbers and email addresses, shall be revised periodically as necessary to maintain accurate information at all times.
- (c) **Optional KNOX Box Requirement.** When ordered as necessary by the Building Inspector or Fire Inspector, a KNOX box shall be installed on the exterior of a multi-family dwelling with six (6) or more dwelling units to gain non-destructive entry to the structure for fire and other public safety emergency responses. The cost of the KNOX box and installation shall be the responsibility of the property owner.

Sec. 15-4-6 Safe and Sanitary Maintenance of Property.

- (a) **Purpose.** The purpose of this Section is to recognize the private and public benefits resulting from the safe, sanitary, and attractive maintenance of residential buildings, yards, or vacant areas. Attractive and well-maintained property will enhance the neighborhood and Village of Wheeler overall and provide a suitable environment for enhancing physical and monetary property values.
- (b) **Exterior Premises and Structural Maintenance Requirements.** Every owner, operator, occupant or tenant shall properly maintain all property under his/her control, including but not limited to residential property (owner-occupied and rental), to comply with the following minimum requirements:
 - (1) **Drainage.** All lawns, yards, or other areas on the premises shall be properly graded to divert water away from the residential building. When a structure has persistent issues with water draining into the building or its basement, the adjacent ground surface shall be sloped away from the structure with a grading of at least one-half (1/2) inch per foot for a minimum of five (5) feet where possible or by other means such as eaves troughs, downspout extensions or rain gardens.
 - (2) **Weeds and Excessive Vegetation Growth.** The standards of Section 15-4-4(b)(3) shall be complied with.
 - (3) **Miscellaneous Debris; Vermin; Health and Safety Hazards.** Pursuant to this Chapter, Section 8-1-2 "Health Nuisances, Abatement of", Section 8-1-8 "Unhealthy, Hazardous or Unsightly Materials on Public or Private Property", Section 10-5-8 "Junked Vehicles and Appliances on Private Property" and Title 11, Chapter 6 "Public

Nuisances", all exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, physical hazards, rodent harborage and infestation, accumulations of animal feces, and inoperable or unlicensed vehicles or equipment as required by Section 10-5-8 and Title 11, Chapter 6 of this Code of Ordinances. All animal feces shall be removed as required by Village ordinance. Specifically, all exterior property areas shall be maintained:

- a. Free from recyclables, refuse, rubbish and garbage which are not properly contained as required by Section 8-1-2 "Health Nuisances, Abatement of", Section 8-1-8 "Unhealthy, Hazardous or Unsightly Materials", and Title 8, Chapter 3 "Refuse Collection and Recycling" for purposes of storage and collection, provided such outside storage of recyclables is not for longer than fourteen (14) days or to accommodate collection, whichever is first.
 - b. Free from items such as inoperable or nuisance vehicles, boats, recreational vehicles, trailers, building materials, scrap metals, appliances, furniture, or other debris in violation of Section 10-5-8 "Junked Vehicles and Appliances on Private Property".
 - c. In a condition so as not to become infested with rodents or be a rodent harborage. All premises shall be kept from harboring raccoons, skunks, undomesticated rodents, insect infestations and other pests as determined by the Building Inspector or public health authorities. Where such pests are found, they shall be promptly humanely exterminated or removed in a lawful manner.
 - d. Free from building materials as required by Section 10-5-8 "Junked Vehicles and Appliances on Private Property", unless such materials are temporarily stored on the property for use with a building project pursuant to a valid Village building permit.
 - e. Free from substantial accumulations of animal feces as required by Title 7, Chapter 1 of this Code of Ordinances.
 - f. Free from physical hazards.
 - g. Free from any accumulation of combustible materials which are not used as an integral part of an authorized business lawfully conducted on the premises. Oil, solvents, combustible fluids, fuels, vehicle fluids, pesticides and other potentially hazardous or unsafe fluids shall not be stored outside in a manner which could present a safety hazard of fire or contamination of groundwater or public utilities.
 - h. In a manner which does not constitute a threat to health or safety or is a public nuisance per Title 11, Chapter 6 or this Chapter.
- (4) **Fences, Walks, Parking Areas.** Fences, other accessory construction, walks, driveways, parking areas, and similar paved areas shall be properly maintained in a safe and properly maintained condition. Pursuant to Village Zoning Code standards, all fences shall be maintained in good repair, be structurally sound and plumb. Fence

surfaces shall be reasonably free of rust corrosion, deterioration, decay, missing parts, and peeling, flaking or deteriorated paint or stain. Wood surfaces, other than decay-resistant wood, shall be protected from the elements and decay by staining, painting or other protective coating or treatment. Fences shall not be of a type prohibited by the Village Zoning Code. [See Section 13-1-200].

- (5) **Exterior Surfaces.** Exterior surfaces of buildings and structures not inherently resistant to deterioration due to the type of siding used shall be treated with a protective coating of paint, stain or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint, stain or other preservative shall be maintained so as to prevent excessive chipping, cracking, or other deterioration of the exterior surface or surface treatment and to present an attractive appearance.
- (6) **Yard Areas.**
 - a. Yard areas of real estate shall not be permitted to deteriorate or remain in a condition that is not in accord with the following: Yard areas shall be kept in a clean and sanitary condition, free from any accumulation of combustible or non-combustible materials, debris, or refuse. Yards shall not be used to store appliances, furnaces, hot water heaters, water softeners, construction debris or building material not used within thirty (30) days, or any unsightly bulk items.
 - b. Plantings shall be maintained as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance and value of the property on which located, and thereby the appearance and value of the neighborhood and Village. The provisions of Section 10-5-8 shall be complied with regarding the outside storage of vehicles, boats, recreational vehicles, construction equipment and other refuse and debris.
 - c. The unpaved public terrace area, as defined in Title 6, Chapter 2, abutting private property shall be maintained by the abutting property owner in accordance with, but not limited to, Sections 8-1-4, 8-1-5 and 8-1-6.
- (7) **Prohibited Storage of Debris.** No person shall store or dispose of, other than temporarily with a current project, rocks, trees, stumps, waste materials or other debris from land development, building construction, installation of underground utilities, or from any other activity upon the surface of any parcel in the Village regardless of zoning classification, except at approved disposal sites.
- (8) **Accessory Buildings.** All accessory structures and buildings, including windows, doors and roofs which are a part thereof, shall be maintained structurally sound, in good repair, reasonably watertight and rodent-proof. Factors indicating a state of disrepair include, but are not limited to, defective or collapsed roofs, missing windows and doors, deteriorated or missing siding, and/or substantial leaning indicating structural damage.

- (9) **Graffiti.** The owner, occupant, operator, or tenant of any building or accessory building/structure shall be responsible for removing all graffiti therefrom within fifteen (15) days following receipt of a Village notice to remove such graffiti as required by Section 11-3-12 of this Code of Ordinances..
 - (10) **Structural Members.** All structural members shall be maintained structurally sound in good repair, and be capable of safely supporting the imposed loads.
 - (11) **Windows.** Every window, storm window, skylight and/or screen window, including frames, shall be kept in sound condition, good repair and weathertight. All window glazing shall be maintained free from holes and large cracks.
 - (12) **Roofs and Drainage.** The roof and flashing shall be maintained structurally sound and not have defects which consistently admit water. Roof coverings shall be in good repair, free from missing components, storm damage, and not have missing components. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof water shall not be discharged in a manner which creates a public nuisance or unsafe conditions.
 - (13) **Overhang Extensions.** All canopies, marquees, awnings, signs, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained structurally sound and in good repair with proper anchorage.
 - (14) **Porches, Ramps, Decks, Balconies and Exterior Stairways.** Every porch, deck, exterior stairway, ramp and/or balcony, and all appurtenances attached thereto, shall be maintained in a structurally sound condition, in good repair, with proper anchorage, and capable of supporting imposed loads. Any new or replacement exterior stairway, deck, porch, ramp and/or balcony shall be installed in accordance with the Wisconsin Uniform Dwelling Code.
- (c) **Interior Maintenance Requirements.**
- (1) **General Maintenance and Cleanliness.** Every interior floor, wall, and ceiling, including door and window assemblies, shall be kept reasonably clean and in good repair, and shall be capable of affording privacy. Any hazardous sagging or bulging shall be properly repaired to a level or plumb position. All surfaces shall be free from serious cracking, irregularities, and peeling paint. A waterproof and hard surface shall be provided in spaces subject to moisture. All surface repairs shall be completed to closely match the existing surface texture. Floor surfacing shall provide ease of maintenance and durability appropriate for the use of the room.
 - (2) **Weathertight, Watertight and Rodent-Proof Premises.** Every foundation, exterior wall, and floor and roof shall be reasonably weathertight, watertight, and rodent-proof and shall be kept in proper repair and shall be capable of affording privacy. Any hazardous sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breaching shall be so constructed and maintained so as to ensure that it safely and properly removes the products of combustion from the building. Every gap allowing the accumulation of dirt or other objectionable matter in bathing,

toilet, or food preparation areas shall be tightly sealed with an impervious and cleanable material.

- (3) **Stairway Maintenance.** Every inside and outside stairway, porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in proper condition and repair and shall present an attractive appearance. All interior and exterior stairs and steps and every appurtenance thereto shall comply with the requirements specified in Sec. SPS 321.04, Wis. Adm. Code, or other Wisconsin Administrative Code provisions as dictated by the type of occupancy in the building.
- (4) **Plumbing Fixtures Maintenance.** Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good working condition, free from defects, leaks, and obstructions.
- (5) **Bathroom Maintenance.** Every water closet compartment floor surface and bathroom floor surface shall be properly constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a reasonably clean and sanitary condition.
- (6) **Supplied Facilities.**
 - a. Every supplied facility, piece of equipment, or utility connection shall be so constructed, installed, and maintained so that it will function in a proper working condition.
 - b. The owner of any dwelling or apartment in which a cooking stove and/or refrigerator are furnished for the use of the tenants as part of a rental agreement shall keep such cooking stove and/or refrigerator in good mechanical and safe working condition.
 - c. It shall be the responsibility of the tenant to maintain supplied facilities in a clean and sanitary condition when contained within the tenant's dwelling unit.
- (7) **Equipment Removal Restricted.** No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this Chapter to be removed from or shut off from or discontinued for any occupied dwelling, dwelling unit, or rooming unit let or occupied by him/her, except for such temporary interruption as may be necessary while actual repairs are in process, or during temporary emergencies when discontinuance of service is approved by an authorized inspector.
- (8) **Abandoned Fuel Oil Tanks.** Abandoned fuel oil tanks shall be removed from the building.
- (9) **Public/Shared Areas.** Every owner of a dwelling containing three (3) or more dwelling units shall be responsible for maintaining a clean and sanitary condition the shared or public areas of the dwellings and premises thereof.
- (d) **Hazardous Conditions.** It is the owner's responsibility that dwellings be structurally sound and free of conditions which constitute a substantial hazard to the health and safety of the

occupant(s) or which create an unreasonable risk of personal injury resulting from any reasonable foreseeable use of the dwelling (other than the negligent use of the dwelling by the occupants). Such violations include, but are not limited to, sewage or water accumulations in the basement, excessive damage to the interior which may pose health problems, or excessive human, animal or other solid waste accumulation inside the structure which may pose a health problem.

- (e) **Animals - Unsanitary Conditions.** No occupant of a residence shall keep any animals or pets in a dwelling or rooming unit, or on any premises, in such manner as to create unsanitary conditions, including, without limitation, accumulation of excrement. [See Title 7, Chapter 1 of this Code of Ordinances].

Sec. 15-4-7 Conditions of Occupancy and Use of Space in Residential Buildings.

- (a) **Purpose.** The purpose of this Section is to establish minimum standards for the quantity, location, and use of space in residential building units so as to preserve and promote the public health and safety. A suitable environment for safe, healthy, and desirable living can be enhanced by providing adequate space and privacy for occupants of all residential units. No person shall occupy or let to another person for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the requirements herein.
- (b) **Size of Dwellings and Dwelling Units.**
- (1) **Detached Single-Family Dwellings.** Every detached single-family dwelling other than a mobile home shall have at least five hundred (500) square feet of floor area on the first floor level.
 - (2) **Floor Space.**
 - a. Every dwelling unit, except for hotels and rooming houses, shall contain a minimum of one hundred fifty (150) square feet of habitable floor area for the first occupant and a minimum of one hundred (100) additional square feet of floor area for each additional occupant.
 - b. The floor area of a rooming house room shall provide not less than seventy (70) square feet of floor area for one (1) occupant and fifty (50) square feet for each additional occupant.
 - (3) **Excluded Spaces.** Floor area shall be calculated on the basis of habitable room area. Closet and hallway areas within the dwelling unit may count for no more than ten percent (10%) of the required habitable floor area. The space used as a laundry, workshop, furnace room, and common hallways shall not be included as part of the space required in Subsections (b)(1) and (2) above.
 - (4) **Bathroom Access.** Every occupant of a dwelling unit shall have unrestricted access to a bathroom and flush toilet, and to a sink or lavatory basin, located within the dwelling unit. Such access shall not be through more than one (1) sleeping room.

- (5) **Ceiling Height.** At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven (7) feet. The floor area of that part of any room where ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing floor area of the room for determining maximum permissible occupancy thereof.
- (6) **Basement Use.** A basement space may only be used for a sleeping room if:
 - a. The floor and walls are impervious to leakage of underground and surface runoff water and excess humidity is controlled.
 - b. The space being utilized complies with the requirements for habitable rooms.
 - c. The total openable window area in each basement room is equal to at least the minimum required under this Chapter or applicable building code standard, except where there is supplied some other means affording adequate ventilation.
 - d. A basement-only structure shall not be used as a dwelling.
- (c) **Habitability of Mobile Homes.** Wrecked, damaged or dilapidated mobile homes shall not be placed, kept, stored or occupied upon any parcel in the Village. The Building Inspector, Fire Inspector or public health authorities shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy and constitutes a public nuisance. Upon such a finding, the abatement procedures of this Chapter shall be followed, and the dilapidated, wrecked or damaged mobile home shall be removed from the Village or is properly repaired allowing safe and sanitary occupancy.

Sec. 15-4-8 Vacant Buildings.

- (a) **Title.** This Section shall be known as, referred to and cited as the "Vacant Buildings Code" or this Section.
- (b) **Purpose.** This Section is enacted to facilitate the identification of, inspection of, and property maintenance of vacant buildings for purposes of preserving and safeguarding the public health, safety and general welfare, and to abate and prevent property maintenance issues, public and private nuisances, and potential vandalism and fire hazards. The purpose of this Section is to establish the measures and requirements reasonably necessary to protect the health, safety and welfare of the public from blight, hazards, public nuisances and negative market impacts of vacant or abandoned buildings and structures.
- (c) **Applicability; Exemptions.**
 - (1) The provisions of this Vacant Building Code shall apply to all residential single-family, two-family and multi-family dwellings vacant for one hundred eighty (180) consecutive days and all manufacturing, commercial, institutional, and mixed occupancy buildings vacant for three hundred sixty-five (365) consecutive days.
 - (2) Upon application to the Village Board, an exemption from the provisions of this Section may be granted for a period up to three hundred and sixty-five (365) days.

In the event an exemption is granted, the premises must be maintained in a clean and sanitary condition, with weeds/grasses cut, sidewalk snow removed, and the building maintained in good condition during the exemption period consistent with the requirements of this Code of Ordinances.

- (3) The exemption may be revoked for a failure of the applicant to maintain the building or premises associated with the building free from violation(s) of law or this Code of Ordinances. Any one (1) of the following circumstances may be a basis for an exemption from the provisions of this Section:
 - a. A building under active construction, rehabilitation, renovation or repair for which a building permit has been obtained and is being complied with.
 - b. A building with a raze permit or a raze order pending from the Village.
 - c. A building whose owner is actively seeking in good faith to rent or sell the building, which good faith is supported by evidence to the reasonable satisfaction of the Village Board of such activity.
- (d) **Conflict.** In any case where a provision of this Section is found to be in conflict with a provision of the Uniform Building Code (UDC) or any other provision of this Code of Ordinances, the provision which established the higher standard for the protection of the public health, safety and welfare shall prevail.
- (e) **Administration.**
 - (1) **Enforcement Official.** The Enforcement Official ("Code Official") responsible for the administration and enforcement of this Section shall be as authorized by the Village Board, and may be the Building Inspector, Zoning Administrator, Village Engineer, Fire Inspector or a law enforcement officer, or a combination of such officials.
 - (2) **Inspections.** The Enforcement Official has the power to inspect premises and structures to determine compliance with this Section. All reports of such inspections shall be signed and dated by the Enforcement Official.
 - (3) **Right of Entry; Inspections.** The Enforcement Official is authorized to enter structures or premises, at reasonable times, with the express or implied consent of the owner, operator or occupant, to conduct administrative interior and exterior inspections for administration and enforcement purposes regarding this Section. If entry is refused or not obtained, the Enforcement Official is authorized to pursue recourse to obtain entry as provided by law, such as obtaining an inspection warrant.
 - (4) **Reinspections.** Every owner, operator and occupant of a premises shall cooperate with and facilitate reinspections of premises at reasonable times pursuant to reasonable notice from the Enforcement Official to determine compliance with this Section with an Order to Repair. Failure by said owner, operator or occupant to cooperate with and facilitate such reinspections by the Enforcement Official shall be a violation of this Section.
 - (5) **Identification.** The Enforcement Official shall carry Village-issued identification when entering and inspecting premises in the performance of his/her duties under this Section and display such identification when asked.

- (6) **Obstruction; Denial of Entry.**
 - a. No owner or operator of a premises may deny the Enforcement Official the right to enter and inspect any portion thereof under the control of a lawful occupant where such occupant has consented to such entry and inspection.
 - b. No occupant of a premises shall obstruct the owner thereof from complying with any order(s) of the Enforcement Official made under the authority of this Section. Obstruction shall include the denial of entrance into a premises at reasonable times pursuant to reasonable notice.
- (f) **Vacant Building Permit; Vacant or Abandoned Building Requirements.**
 - (1) **Vacant Building Permit.** The owner of a vacant building or structure subject to this Section shall obtain a Vacant Building Permit for the period during which it is vacant. When a building or structure becomes vacant, as defined in this Section for a period of time greater than allowed, the owner of the building or structure shall apply for and obtain from the Village an annual Vacant Building Permit. Upon the expiration of a Vacant Building Permit, if the building or structure is still vacant, the owner shall arrange for an inspection of the building and premises with the Enforcement Official pursuant to this Subsection and renew the permit within fifteen (15) days of expiration in the same manner as the expired permit. All renewed permits shall be subject to all conditions and obligations imposed by this Section.
 - (2) **Code Compliance.** The owner of a vacant building or structure shall comply with all building, fire, property maintenance, UDC, and other applicable Code or Ordinances, and shall apply for all necessary building and zoning permits upon application for a Vacant Building Permit.
 - (3) **Waste Removal.** The owner of a vacant building or structure shall immediately remove all waste from the interior of the structure. The owner of the vacant building or structure shall also immediately remove any waste, debris and excessive vegetation from the exterior premises surrounding the vacant building or structure in accordance with the vacant building maintenance standards of this Section and the Village Code of Ordinances.
 - (4) **Owner's Responsibility.**
 - a. The owner of a vacant building or structure shall immediately lock, barricade or secure all doors, windows and other openings in the building or structure to prevent entry by unauthorized persons in accordance with the standards of this Section.
 - b. If the property owner does not reside in the State of Wisconsin, the owner shall provide to the Enforcement Official the name, address, email address, and telephone number(s) of an agent who is available for service of process within the State of Wisconsin. The owner shall provide the Enforcement Official the name, address, email address and telephone number(s) of a property manager who is available for contact by the Village at all times for emergency repairs and

maintenance, and who will respond to the vacant building or structure when required by the Enforcement Official. The agent and manager may be the same person, and/or either may be a responsible person. The owner shall notify the Village within thirty (30) business days of any changes to the name, address, email address or telephone number(s) of the agent or manager.

- (5) **Owner's Obligation Continuous Through Term of Vacancy.** The obligations of owners of a vacant building or structure are continuing obligations which are effective throughout the time of vacancy, as that term is defined in this Section.
- (g) **Vacant Building Permit Application.** Application by the owner of a vacant building or structure for a Vacant Building Permit shall be made to the Village Clerk-Treasurer. Applicants shall disclose all measures to be taken to ensure that the building will be kept weathertight, secure from trespassers, and safe for entry by law enforcement officers and firefighters in times of exigent circumstances or emergency. The application shall include, but not be limited to, the following:
- (1) **Contact Information.** Contact information for the owner(s). If the owner is other than a natural person, the following shall apply, as appropriate:
- a. If the owner is a corporation, limited liability company, limited or liability partnership, the registration statement shall provide the names and residence addresses of all responsible persons and the name and business address of the registered agent for service of process appointed pursuant to Wisconsin law.
 - b. If an estate, the name and business address of the personal representative of the estate.
 - c. If a trust, the names and addresses of the trustee(s).
 - d. If a partnership, the names and residence addresses of the partner or partners.
 - e. If another form of unincorporated association, the name and residence address of a responsible person.
- (2) **Razing or Repair Plans.** Any demolition or rehabilitation plans.
- (3) **Outdoor Maintenance Commitment.** A commitment by the owner that grass and weeds shall not exceed a height of eight (8) inches, and that snow and ice will be removed from any sidewalk adjacent to the parcel within twenty-four (24) hours of a snowfall.
- (h) **Issuance of Vacant Building Permit.** The Enforcement Official shall issue a Vacant Building Permit upon being satisfied that the building has been inspected and is in compliance with the vacant building standards set forth in this Section, and is adequately protected from intrusion by trespassers and from deterioration by the weather. A Vacant Building Permit shall be valid for three hundred sixty-five (365) days.
- (i) **Inspection of Vacant Premises.**
- (1) **Inspection Purpose.** The Enforcement Official(s), or other Village designee, may inspect vacant buildings to determine the structural integrity of the building, the repairs necessary to maintain structural integrity, determine what repair actions must

be undertaken to maintain the premises safe for entry of law enforcement officer, firefighters and other emergency personnel in times of exigent circumstances or emergency, inspect to see that the building and its contents do not present an imminent danger to the public during the time the building remains vacant, and the the building or structure are in compliance with the requirements of this Section.

(2) **Enforcement Official Directed Inspections.**

- a. *Implied Consent Inspections.* Any owner of a building which is either the subject of a Vacant Building Permit or who is an applicant for such permit is deemed to have given consent to inspections of the building.
- b. *Emergency Inspections/Emergency Repairs.* If, at any time, an Enforcement Officer has reason to believe that an emergency situation exists with respect to a vacant building which may create an imminent hazard to public health, welfare or safety, the Enforcement Officer may enter the building to inspect the premises without notifying the responsible party or obtaining an inspection warrant. If the Enforcement Official finds an emergency situation exists which presents an imminent hazard to the health, welfare or safety of the public, the maintenance of which, until such time as the responsible party can conduct the repairs, would be unreasonable, the Enforcement Official may cause a reasonable official action, including the employment of necessary labor and materials, to perform emergency repairs. Costs incurred by the Village in making emergency repairs shall be recovered from the responsible party by a special charge levied against the benefitted property. An administrative fee for the emergency inspection and for processing and administering the special charge shall be added to the charge amount levied against the benefitted property.
- c. *Inspections Made Pursuant To A Special Inspection Warrant.* If a vacant property responsible party takes any action contrary to the implied consent for inspections detailed above, the property owner is deemed to consent to the issuance of a special inspection warrant from a court of competent jurisdiction pursuant to Sec. 66.0119, Wis. Stats. Any interior inspection made pursuant to a special inspection warrant shall be deemed a reinspection for the purpose of imposition of fees pursuant to this Section.
- d. *Reinspections.* At any time subsequent to the issuance of an Order to Repair, the Enforcement Official may conduct reinspections to determine compliance with an Order to Repair. Such reinspections will only be conducted after a reasonable time has been afforded to the responsible party to comply with the Order to Repair. Reinspections are subject to applicable Village fees.

(3) **Responsible Party Requests For Inspection.** Requests from responsible parties for inspections of vacant buildings are subject to a Vacant Building Permit and are under the control of the requesting responsible party.

(j) **Issuance of Orders to Repair.**

- (1) **Repair Safeguards.** The Enforcement Official, upon inspection, may issue orders to repair for work needed with a vacant building to:

- a. Adequately protect the building from intrusion from trespassers and from deterioration by the weather in accordance with the vacant building maintenance standards set forth in this Section; and
 - b. Ensure that allowing the building to remain will not be detrimental to the public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood, and will not pose an extraordinary hazard to law enforcement officers or other emergency personnel entering the premises in times of emergency.
- (2) **Compliance Timeline.** When issuing such orders, the Enforcement Official shall specify the time for completion of the work. All work done pursuant to this Section shall be done in compliance with applicable provisions of the Village's Building Code, Fire Code, property maintenance ordinances, Uniform Dwelling Code and other applicable ordinances.
- (k) **Vacant Building Maintenance Standards.** A vacant building or structure shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if it satisfies the following vacant building maintenance standards:
- (1) **Building Openings.** Doors, windows, hallways, and other openings shall be weathertight and secured against entry by trespassers, birds and vermin. Missing or broken glass in doors, windows and other such openings shall be repaired/replaced with glass. No building opening shall be boarded over. All first floor or ground level windows, doors and openings shall be free of any posters, paper, fabric or other materials which completely obstruct the view into the building's interior.
 - (2) **Roofs.** The roof and flashings shall be sound and tight and not have defects or damage which might admit moisture, rain or roof-draining. Roofs shall not allow for drainage to create dampness or deterioration in the interior of the building.
 - (3) **Building Structure.** The vacant building shall be maintained in good repair, structurally sound, and free from debris, rubbish and garbage. The building shall be maintained to a sanitary standard and in a manner that does not pose a threat to the public health, safety and welfare.
 - (4) **Structural Members.** The structural members of the vacant building shall be free of deterioration and capable of safely bearing imposed dead and live loads.
 - (5) **Foundation Walls.** The foundation walls shall be structurally sound and in a sanitary condition so as not to pose a threat to the public health, safety and welfare, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and be animal and vermin-proof.
 - (6) **Exterior Walls.** The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint, stain or similar surface treatment.

- (7) **Decorative Features.** The cornices, belt courses, terra cotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint, stain or similar surface treatment.
- (8) **Overhanging Features.** All balconies, canopies, marquees, signs, awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe, sound and properly painted.
- (9) **Chimneys and Towers.** Chimneys, cooling towers, smokestacks and similar appurtenances shall be structurally safe, in good repair, and properly painted.
- (10) **Walkways.** Public sidewalks adjacent to the vacant building parcel shall be unobstructed and kept free of snow/ice as required by Village ordinances.
- (11) **Accessory Buildings/Structures.** Accessory structures and buildings such as garages, sheds and fences shall be free from safety, health and fire hazards, and shall comply with the maintenance requirements of this Chapter.
- (12) **Exterior Premises.** The premises upon which the vacant structure or building is located shall be kept clean, safe, sanitary, free from waste, rubbish, garbage, unmaintained vegetation, impermissible outdoor storage, and shall not pose a threat to the public health, welfare or safety.

Sec. 15-4-9 Responsibilities of Residential Owners, Operators and Occupants.

- (a) **Purpose.** The purpose of this Section is to establish the responsibility of owners, operators, and occupants of residential buildings.
- (b) **Responsibilities.** The responsibilities of owners, operators, and occupants of residential buildings are as follows:
 - (1) Every owner of a dwelling shall be responsible for maintaining in a clean, safe, and sanitary condition all shared, communal or public areas of the residential building and premises thereof.
 - (2) Every occupant of a dwelling unit shall keep in a clean, safe, and sanitary condition that part of the residential building and premises thereof which he/she occupies and controls, except the operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, ceilings, and every other part of the rooming house.
 - (3) Every occupant of a dwelling containing more than one (1) dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises and every occupant of a dwelling unit in a residential building shall be responsible for such extermination whenever his/her dwelling unit is the only one infested. However, when infestation is caused by the failure of the owner to maintain

- a dwelling in a rodent-proof or substantially insect-proof, or if termites infest the dwelling unit, extermination shall be the responsibility of the owner.
- (4) Every occupant of a dwelling unit shall maintain all plumbing fixtures therein in a clean and sanitary condition.
 - (5) The owner or operator shall not occupy or let to another for occupancy any space in a residential dwelling unless it is clean, sanitary, fit for human occupancy, complies with the requirements of this Chapter and the Wisconsin Administrative Code and compliance inspections/orders thereunder.

Sec. 15-4-10 Inspections.

- (a) **Generally.** The Building Inspector, Fire Inspector, or public health authorities, or their designees, are authorized and empowered to inspect all residential dwellings, whether owner-occupied or rental units, within the Village of Wheeler pursuant to the requirements of this Section for the purpose of determining whether or not said residential dwellings comply with the requirements of this Chapter, the Village Building Code, and other ordinances pertaining to the public health, safety and welfare. As required by Section 706.22, Wis. Stats., this Chapter, and any inspections thereunder, is intended not to restrict the ability of a person to purchase, sell, take title to, or finance real property or restrict the ability of a purchaser of, or transferee of title, of residential real property to take occupancy of the property.
- (b) **When Inspections May Occur; Inspection Warrants.**
 - (1) **Properties Subject to Inspection.** All properties in the Village of Wheeler, including, but not limited to, residential rental dwelling units, shall be subject to inspection requests. The inspection(s) process may be initiated based on tenant or citizen complaints or requests or where the Building Inspector, Fire Inspector, or public health authorities believe that probable cause exists justifying such inspection(s), and after an inspection warrant is first obtained or consent is voluntarily given to conduct such inspections.
 - (2) **When Inspections Are Authorized.** Inspections by the Village's enforcement personnel shall only be conducted under the following circumstances:
 - a. In an occupied dwelling unit with consent from the property owner or the owner's agent who is present at the time of inspection;
 - b. In an occupied dwelling unit with consent from an adult tenant who is present at the time of inspection; or
 - c. Following the obtaining by the Building Inspector, Fire Inspector, public health authorities, or their designee, of a special inspection warrant under Section 66.0119, Wis. Stats.
 - (3) **Refusal To Provide Inspection Consent.**
 - a. If any owner or occupant refuses to give voluntary consent to the Building Inspector, Fire Inspector or public health authority, or their designee, to enter for

inspection purposes any residential dwelling or portion thereof, the Building Inspector, Fire Inspector, or public health authority are authorized to and may seek a special inspection warrant from an appropriate court pursuant to Sec. 66.0119, Wis. Stats., and then only enter and inspect said residential building pursuant to the authority granted by such warrant.

- b. No owner of a residential building may deny the Building Inspector, Fire Inspector or public health authority, or their designee, of the right to enter and inspect any portion thereof under the control of a tenant when the tenant has consented to said entry and is present for the inspection. No person shall prevent, resist or interfere with the Building Inspector, Fire Inspector or public health authorities when lawfully entering a premises and carrying out their duties as prescribed by this Chapter and other pertinent provisions of the Village of Wheeler Code of Ordinances.
- (4) **Inspection Fee.** The Village may charge a fee for such residential inspections, including those for residential rental units.
- (c) **Confidentiality of Complaints.** In the event the Village receives a complaint regarding the maintenance of a structure, building or premises, the Village may request contact information of the complainant. However, the Village shall endeavor to keep the identity of all complainants confidential unless a complainant requests that their name be revealed. The Village will reveal a complainant's identity if so ordered by a court or when required by law and/or as required by Title 3, Chapter 3 Public Records of the Village of Wheeler Code of Ordinances.
 - (d) **Inspections Resulting From Anonymous Complaints.** Anonymous complaints alone shall not cause the Village to inspect the interior of a building unless there is reason to believe there is an immediate and grave danger to the occupants of the structure or to the occupants of the building or adjacent properties.
 - (e) **Correction of Violations.** Violations identified during such inspections shall be abated within the time ordered by the Building Inspector, Fire Inspector or public health authorities, or their designee.

State Law Reference: Secs. 66.0119 and 706.22, Wis. Stats.

Sec. 15-4-11 Designation of Unfit Dwellings and Legal Procedure Therefor.

The designation of dwellings or dwelling units as unfit for human habitation and the procedure for the condemnation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following procedures:

- (a) **Finding of Defects.** Any dwelling or dwelling unit which shall be found to have any of the following serious defects may be condemned as unfit for human habitation and shall be so designated and placarded by the Building Inspector or public health authorities:

- (1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health, safety, or welfare of the occupants (actual or prospective) or of the public.
 - (2) One which lacks illumination, ventilation, heating, basic equipment, or sanitation facilities adequate to protect the health, safety, or welfare of the occupants (actual or prospective) or of the public.
 - (3) One which, because of its general condition of disrepair, is unsanitary or otherwise dangerous to the health, safety, or welfare of the occupants (actual or prospective) or of the public.
 - (4) One which has a history of structural fires and inadequate subsequent repairs.
 - (5) One which, because of its general condition, location or appearance, is a blighting influence or causes a decrease in the valuation of property in the immediate neighborhood.
- (b) **Designation as Unfit for Human Habitation; Vacation of Premises.** Any dwelling, dwelling unit, building or structure designated and placarded by the Building Inspector or public health authorities as unfit for human habitation until necessary repairs are made or the structure is razed shall be vacated within such a reasonable time as is ordered by the Building Inspector or public health authorities.
- (c) **Unfit Dwelling Not to be Reoccupied.** No building or structure or part thereof which has been designated and placarded as unfit for human habitation and in need of repairs or razing shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Building Inspector or public health authorities. The Building Inspector or public health authorities shall remove such placard whenever the defect or defects upon which the designation and placarding action were based have been properly addressed and corrected.
- (d) **Defacement or Removal of Condemnation Notices.** No person shall deface or remove the placard from any building or structure, or part thereof, which has been condemned as unfit for human habitation and placarded as such.
- (e) **Legal Proceeding for Razing Order.** Any building or structure or part thereof designated as unfit for human habitation and in need of repairs or razing by the Building Inspector or public health authorities, which in the opinion of the Building Inspector or public health authorities would be unreasonable to repair, shall be razed or removed upon legal written service of the order of the Building Inspector or public health authorities. The provisions of Section 15-1-9 and Sec. 66.0413, Wis. Stats., shall be complied with, whichever is most restrictive. If the owner shall fail or refuse to comply with the order, the Building Inspector or public health authorities shall refer such violation to the Village Board and Village Attorney who will start any legal proceedings necessary to cause such building to be razed or removed as a violation of this Chapter. Any dwelling declared structurally unsafe or unsanitary shall be razed or restored according to the provisions of Sec. 66.0413, Wis. Stats., and Section 15-1-9.

- (f) **Vacant Buildings to be Secured From Entry.** Any building which has been vacant for more than thirty (30) days due to damage, disrepair or vandalism shall be secured against unauthorized entry, except as provided under Subsection (f)(2) below. This shall include adequately boarding up and securing doors, windows, and other openings in a workmanlike manner so as to not present an attractive nuisance and to prevent illegal entry, vandalism or damage:
- (1) The building's utilities, plumbing, electrical and heating systems in such vacant building shall be maintained at all times when possible in a safe condition or inactivated so as to prevent the possibility of damage to the structure by the failure of such utilities and so as to prevent the existence of hazardous, unsanitary, and dangerous conditions.
 - (2) When any building has been seriously damaged by fire, weather or other cause and when hazardous or dangerous conditions exist and when such building cannot be secured by conventional locking or boarding up of windows and doors, such building shall be fenced off so as to prevent access and entry to the structure and the area immediately surrounding the structure within seven (7) days of the damage by fire, weather or other cause.

State Law Reference: Section 66.0413, Wis. Stats.

Sec. 15-4-12 Enforcement; Service of Notices and Orders; Hearings.

(a) **Notice of Violation.**

- (1) Whenever the Building Inspector, Fire Inspector or public health authorities ("Enforcement Official") have found a violation or determines that there are reasonable grounds to believe that there has been a violation of any provision of this Chapter or of any rule or regulation adopted pursuant thereto, the Building Inspector, Fire Inspector or public health authorities, or designee, shall give notice of such alleged violation to the person or persons responsible. Such notice shall:
 - a. Be in writing.
 - b. Include a statement of the reasons why it is being issued.
 - c. Provide a reasonable time for the performance of any act it requires.
 - d. Be served upon the owner or his/her agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or the owner's agent or upon such occupant if an adult:
 1. A copy thereof is served upon him/her personally;
 2. A copy thereof is sent by certified mail to his/her last-known address or regular place of abode;

3. A copy thereof is posted in a conspicuous place in or about the dwelling or dwelling unit affected by the notice; or
 4. If he/she is served with such notice by any other method authorized or required under the laws of the State of Wisconsin.
- (2) The above notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Chapter and with rules and regulations adopted pursuant thereto.
- (b) **Violation Reoccurrence.** Whenever there has been notice of a violation and notice issued to the owner, the agent of any owner, or the occupant of property which is in violation of this Chapter, no further notice shall be necessary for any reoccurrence of the violation prior to the commencement of any forfeiture action or prior to seeking an injunction in a court of record.
- (c) **Hearing.** Any person affected by any notice which has been issued pursuant to the enforcement of any provision of this Chapter, or of any rule or regulations adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Building Inspector, Fire Inspector, public health authority or other appropriate Enforcement Official, provided that such person shall file with the Village Clerk-Treasurer, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the date the notice was served. Upon receipt of such petition, the appropriate Enforcement Official shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to provide reasons why such notice should be modified or withdrawn. The hearing shall be commenced no later than ten (10) days after the day on which the petition was filed. Upon request of the petitioner, the Enforcement Official may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if, in his/her judgment, the petitioner has submitted sufficient grounds for such postponement.
- (d) **Post-Hearing Determinations and Actions.**
- (1) Following such hearing, the Enforcement Official shall sustain, modify, or withdraw the notice, depending upon his/her findings as to whether the provisions of this Chapter and of the rules and regulations adopted pursuant thereto have been complied with.
 - (2) Any notice served pursuant to this Chapter shall automatically become an order if a written petition for a hearing is not filed in the office of the Village Clerk-Treasurer within ten (10) days after such notice is served.
 - (3) Following a hearing in the case of any notice suspending any permit related to this Chapter (such as a building permit) or by any rule or regulation adopted pursuant thereto, when such notice has been sustained by the Enforcement Official, the permit shall be deemed to have been revoked. Any such permit which has been suspended by a notice shall be deemed to be automatically revoked if a petition for hearing is not filed in the office of the Building Inspector within ten (10) days after such notice is served.

- (4) Whenever any order to correct conditions regarding the premises made pursuant to this Chapter has not been complied with because the person to whom the order was directed has failed, neglected or refused to comply, the Building Inspector may request appropriate Village authorities to initiate prosecution, or institute any appropriate action to abate such building as a public nuisance, the cost of which will be assigned to the property owner as a special charge.
- (e) **Record of Proceedings.** The proceedings at such hearing, including the findings and decision of the Enforcement Official, shall be summarized, reduced to writing, and entered as a matter of public record. Such record shall also include a copy of every notice or order issued in connection with the matter.
- (f) **Emergency Situations; Emergency Orders.**
 - (1) Whenever an Enforcement Official finds that an emergency exists which requires immediate action to protect the public health, safety, or welfare, the Enforcement Official may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the Enforcement Official deems necessary to meet the emergency. Notwithstanding other provisions of this Chapter, such emergency order shall be effective immediately.
 - (2) Any person to whom such emergency order is directed shall comply therewith immediately, but upon petition to the Village Clerk-Treasurer shall be afforded a hearing as soon as possible. After such hearing, depending upon the Enforcement Official's findings as to whether the provisions of this Chapter and of the rules and regulations adopted pursuant thereto have been complied with, the Enforcement Official shall continue such emergency order in effect, or modify it, or revoke it.
- (g) **Appeals of Determinations.** Any person receiving a notice of violation and compliance order which has been issued in connection with the enforcement of any provision of this Chapter and aggrieved thereby may appeal the order and shall be granted a hearing on the matter before the Village Board, provided the review process under Subsections (c)-(d) have first been exhausted. Such person shall file with the Village Clerk-Treasurer a written appeals request, setting forth the grounds therefor, within twenty (20) days after the date the Enforcement Official's determination under Subsections (d) or (f) above. Upon receipt of such request, the Village Board shall set a time for such hearing and shall give the petitioner written notice thereof. At such hearing before the Village Board, the petitioner shall be given an opportunity to be heard and to show why such notice of violation and order should be modified or withdrawn. The petitioner shall pay to the Village any fee required for such appeal before the Village Board. Any person aggrieved by the decision of the Village Board may seek relief therefrom in any court of competent jurisdiction, as provided by state law.

Sec. 15-4-13 Residential Rental Contact Registration.

- (a) **Findings and Intent.** The Village Board finds that it is necessary to establish a program for registration by the Village of Wheeler of residential rental dwelling units to assist in responding to complaints regarding unsafe or unsanitary conditions for tenants. The Village

Board finds that a significant percentage of code complaints, violations and compliance actions occur involve residential rental dwelling units and that the conditions which are found to exist at such dwelling units adversely affect the neighborhoods in which they are located and the health and safety of tenants. This Section is adopted to help facilitate communications with the owners of residential rental dwelling units and secure cooperation with making appropriate repairs. Village officials and emergency responders can utilize contact information gathered through registration to contact property owners or landlords in case of an emergency with the rental property.

(b) **Owner Registration.**

- (1) The owner of a residential rental dwelling or dwelling unit within the Village of Wheeler shall record the residential contact information with the Village Clerk-Treasurer by July 1, 2021 for rental units existing on the effective date of this Chapter, or within thirty (30) days of full or partial occupancy of new construction or the creation of new residential rental units. The contact registration does not act as a statement or admission regarding the rental unit's condition, give ongoing permission to enter the premises for purpose of inspection, or in any manner interfere with the sale, ownership or occupancy of such property.
- (2) With the registration, the owner, or the owner's agent, shall provide contact information as follows:
 - a. Legal name of the owner and the name of any agent or property manager, and their current addresses;
 - b. Street address of the rental property;
 - c. Number of rental units at that address; and
 - d. Telephone numbers (landline and cellphone), fax numbers, and email addresses at which the owner, his/her agent, or property manager can be reached and a response received within forty-eight (48) hours to take corrective actions.
- (3) There shall be no fee for the residential rental contact registration.
- (4) The owner of a residential rental dwelling or dwelling unit shall update the above contact information within thirty (30) days of any changes in the information required by Subsection (b)(2) to ensure that the registration on file with the Village is current and correct.
- (5) Within thirty (30) days of the transfer, conveyance or sale of a residential rental unit, the new owner shall submit to the Village the required contact information required by this Section.

Sec. 15-4-14 Penalties.

(a) **General Penalty.**

- (1) **Noncompliance Violations.** Any person who violates any provision of this Chapter shall upon conviction be subject to a forfeiture as prescribed in Section 1-1-6 of this

Code of Ordinances, together with costs of prosecution. Each day of violation shall constitute a separate and distinct offense. The Village of Wheeler may also seek injunctive relief. In addition to forfeiture and injunctive remedies, the Village, or its agent, may in the event of noncompliance remove refuse from the parcel pursuant to Village ordinances, at the owner's expense, and impose a special charge for such work pursuant to Sec. 66.0627, Wis. Stats.

- (2) **Other Regulations to be Enforced Without Limitation.** Nothing in this Chapter shall be construed as limiting, impairing, altering or extending the rights and remedies of persons in the relationship of owner and tenant that exists under applicable law, nor shall this Chapter be construed to limit the authority of the Village of Wheeler and its employees and agents to perform housing inspections in accordance with this Code of Ordinances or enforcing any other provision of state or federal law or local ordinance, including, but not limited to, the Village Building Code.
- (b) **Collection of Costs Incurred by the Village.** If any property owner, owner's agent, or other responsible person fails to comply with this Chapter, and after written notice given by an authorized agent of the Village, has not complied with the correction orders within the time period specified in the written notice, the Village may cause such maintenance to be performed. The Village Clerk-Treasurer, or authorized designee or agent, shall certify to the County Treasurer a statement of the cost incurred by the Village to correct the deficiencies at the subject property. Costs shall include all expenses incurred associated with bringing the property into compliance with this Chapter, including, but not limited to, administrative and clerical costs, notification and publication fees, equipment charges, landfill tipping fees, contractor fees, and other related remediation expenses. Such costs shall be a lien upon such real estate and shall be a personal liability of the owner of said real estate, collectable as any other money judgment. Such amount, together with interest, shall be entered as a special charge against such lot or parcel of land and may be collected in the same manner as real estate taxes.

Title 15 ► Chapter 5

Fair Housing

15-5-1 Fair and Open Housing

Sec. 15-5-1 Fair and Open Housing

- (a) Pursuant to the authority granted by Sec. 66.1011, Wis. Stats., the Village of Wheeler hereby adopts by reference Sec. 106.50, Wis. Stats., and all subsequent amendments thereto.
- (b) The officials and employees of the Village of Wheeler shall assist in the orderly prevention and removal of all discrimination in housing within the Village of Wheeler by implementing the authority and enforcement procedures set forth in Sec. 106.50, Wis. Stats.
- (c) The Village Clerk-Treasurer shall be the filing official for complaints to be filed under the above-named statutes, and he/she shall assist any person alleging a violation thereof in the Village of Wheeler to file a complaint thereunder with the Wisconsin Department of Workforce Development for enforcement of Sec. 106.50, Wis. Stats.

State Law Reference: Sec. 66.1011 and 106.50, Wis. Stats.

