Title 15

Building Code

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Sec. 15-1-1 Building Code Established.

(a) Title. This Chapter shall be known as the "Building Code of the City of Washburn" 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 in the City of Washburn. 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 City of Washburn, shall conform to all the requirements of this Chapter except as they are herein specifically exempted from part or all of its provisions. Any
alteration, enlargement or demolition of an existing building and any installation therein of electrical, gas, heating, plumbing or ventilating equipment which affects the health or safety of the users thereof or any other persons is a "new building" to the extent of such change. The provisions of this Chapter supplement the laws of the State of Wisconsin pertaining to construction and use and the Zoning Code of the City of Washburn 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.

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

(a) **Permit Required.**

(1) **General Permit Requirement.** No building of any kind shall be moved within or into the City of Washburn 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 City, 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, as appropriate. Prior to commencing any of the following work, the owner or his/her agent shall obtain a valid permit for:

a. New buildings.

b. Re-siding projects and additions that increase the physical dimensions of a building including decks.

c. Alterations to the building structure, with cost determinations including market labor value, or alterations to the building's heating, electrical or plumbing systems.

d. Permits are not required for re-siding or replacement of major building equipment including furnaces, central air conditioners, water heaters, other major pieces of equipment, and plumbing, venting, electrical or natural gas supply systems when altered.

e. Exempted are finishing of interior surfaces, installation of cabinetry, and minor repair as deemed by the Building Inspector.

f. Permits are required for re-roofing, including, without limitation, shingles, metal roofing, tiles or rubber membrane. Any structural repair to a roof or replacement of trusses or sheeting requires a building permit. However, unless structural
calculations are provided, no more than two (2) layers of roofing shall be installed on a roof.
g. Any electrical wiring for new construction or remodeling.
h. Any HVAC for new construction or remodeling.
i. Any plumbing for new construction or remodeling.
j. Exempt from permit requirements are normal repairs described in Subsection (a)(1)d-e above and electrical, HVAC and plumbing normal repairs, complying with Subsection (a)(2) below.

(2) Alterations and Repairs. The following provisions shall apply to buildings altered or repaired:

a. Alterations. When not in conflict with any regulations, alterations to any existing building or structure accommodating a legal occupancy and use but of substandard type of construction, which involves either beams, girders, columns, bearing or other walls, room, heating and air condition systems, arrangement, light and ventilation, changes in location of exit stairways or exits, or any or all of the above, then such existing construction shall be made to conform to the minimum requirements of this Chapter applicable to such occupancy and use and given type of construction.

b. Repairs. Repairs for purposes of maintenance, or replacements in any existing building or structure which do not involve the structural portions of the building or structure or which do not affect room arrangement, light and ventilation, access to or efficiency of any 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. Alterations When Not Permitted. When any existing building or structure, which, for any reason whatsoever, does not conform to the regulations of this Chapter, has deteriorated from any cause whatsoever to an extent greater than fifty percent (50%) of the equalized value of the building or structure, no alterations or moving of such building or structure shall be permitted. Any such building or structure shall be considered a menace to public safety and welfare and shall be ordered vacated and thereafter demolished and debris removed from the premises.

d. Alterations and Repairs Required. When any of the structural members of any building or structure have deteriorated from any cause whatsoever to less than their required strength, the owner of such a building or structure shall cause such structural members to be restored to their required strength; failing in which the building or structure shall be considered a menace to public safety and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the regulations of this Chapter are complied with.

e. Extent of Deterioration. The amount and extent of deterioration of any existing building or structure shall be determined by the Building Inspector.
(b) **Application.** Application for a building permit shall be made in writing upon a form furnished by the Building Inspector or his/her 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 his/her designee may require.

(c) **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 land division and required improvements and phasing are accepted by the Common Council.

(d) **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. The Common Council determines the areas of availability of public utilities in the City.

(2) **Non-Residential Building.** No building permit shall be issued for the construction of any building other than residential until contracts have been let and financial assurances to the City filed, for the installation of sewer, water, grading and graveling in the streets necessary to service the property for which the permit is requested. The Common Council determines the areas of availability of public utilities in the City of Washburn.

(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.

(4) **Exception.** The provisions of Subsections (d)(1), (2) and (3) above do not apply to a building permit or certificate of occupancy requested for a lot where any of the required utilities have not been installed in the block (including any adjacent public right-of-way) where the lot is located or where, as to water service, water cannot be provided from the main to the lot without additional pumping. If the lot for which the building permit or certificate of occupancy is requested is not located within a platted block, then the provisions of Subsections (d)(1), (2) and (3) do not apply if the distance between the closest point of the lot and the closest utility connection for which the property owner has legal access is more than five hundred (500) feet, or where, as to water service, water cannot be provided from the main to the lot without additional pumping. The owner of any lot which a building permit or certificate of occupancy has been obtained pursuant to this exception shall be required, at such time as the City of Washburn extends either water or sewer service to a point such that this exception would not apply under the conditions described in the first two sentences.
of this Subsection to connect to public water and sewer service any building thereon for which such connection would otherwise be required, except that connection shall not be required until the earliest of the following events:

a. Private system failure.
   1. Failure and/or contamination of the existing private well serving the property, no new well-drilling to be allowed; or
   2. Failure of a private on-site waste disposal system.

b. Construction of a new structure on the property.

c. Sale, transfer, or subdivision of the subject property or any part thereof, including the sale, transfer, or subdivision of property to children or relatives of the owner or the placement of the property into a trust.

d. Completion of the amortization of any non-deferred special assessment on the property resulting from the installation of public utilities not to exceed seven (7) years.

(e) **Elevations.** The first floor minimum elevation of a house shall be eighteen (18) inches above the curbline at the high side. The maximum driveway elevation shall be twelve percent (12%) from the flag of the curb to the threshold of the garage door.

(f) **Submission of Plans.**

   (1) **Basic Application Information.** Two (2) sets of building plans shall be submitted to the Building Inspector 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) **Required Plot Information.** The above-described plot plan for a new building shall be a parcel survey [one (1) original with surveyor’s signature and stamp plus two (2) copies] or other form of plot plan acceptable to the Building Inspector. Said plot plan or survey shall show the following:

   a. Location and dimensions of all existing and proposed buildings.
   b. Lot dimensions and all lot corner elevations using USGS datum.
   c. Building setbacks.
   d. The elevation of the proposed structure using USGS datum (must be in accordance with the approved grading plan.
   e. Elevation of the lot and relation to sidewalk, street, etc. using USGS datum.
   f. Elevation and setback of adjacent buildings using USGS datum.
   g. Type of monuments at lot corners (i.e., L.P.).
   h. Water courses, existing drainage ditches, easements and drainage patterns.
   i. Scale and signature of surveyor or professional engineer or a certificate signed by the applicant.
(3) **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.

(4) **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].

(5) **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.

(6) **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.

(g) **Waiver of Plans; Minor Repairs.**

(1) **Waiver.** If the Building Inspector finds that the character of the work is sufficiently described in the application, he/she may waive the filing of plans for alterations, repairs or moving, provided the cost of such work does not exceed Two Thousand Dollars ($2,000.00).

(2) **Minor Repairs.** The Building Inspector may authorize minor repairs or maintenance work with a fair market value less than One Thousand Dollars ($1,000.00), as determined by the Building Inspector, which do not change occupancy, area, structural strength, fire protection, exits, natural light or ventilation.

(h) **(Reserved for Future Use)**

(i) **Permit Issuance – New Non-UDC Projects.** If the Building Inspector in the case of non-UDC projects determines that the building will comply with all applicable ordinances of the City and all applicable laws and orders of the State of Wisconsin, the Building Inspector or his/her designee shall issue a building permit which shall state the use to which said building is to be put, which shall be kept and displayed at the site of the proposed building. After being approved, the plans and specifications shall not be altered in any respect which involves any of the above-mentioned Ordinances, laws or orders, or which involves the safety of the building or the occupants, except with the written consent of the Building Inspector.

(j) **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 part of a UDC-classified building only, the Building Inspector, at his/her discretion, may issue a permit for that part of the building before receiving the plans and specifications for the entire building.

(k) **Inspections.**

(1) **Required Inspections.** The following inspections for UDC projects shall be requested forty-eight (48) hours (business work days) in advance by the applicant/contractor or property owner, to the Building Inspector, as applicable:

a. Footing/foundation.
b. Rough carpentry, HVAC, electric and plumbing.
c. Drain tile/basement floor.
d. Underfloor plumbing/electric service.
e. Insulation.
f. Final carpentry, HVAC, electric and plumbing.
g. Erosion control.

(2) **Failure to Request Inspections.** The requirement to request any inspections is the responsibility of the contractor and/or property owner.
(1) **Permit Lapses.** A building permit shall lapse and be void unless building operations are commenced within six (6) months and if construction has not been completed within eighteen (18) months from the date of issuance thereof.

(2) **Revocation of Permits.**

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

   a. Whenever the Building Inspector or other City authority finds 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 has been issued to the permit holder.

   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 or other City authority, 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 or designee.

(4) **Construction Unlawful Following Permit Revocation.** After the notice is delivered 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 the Building Inspector may require for the preservation of life and safety.
(n) **Report of Violations.** City officers and officials shall report at once to the Building Inspector or City office any building which is being carried on without a permit as required by this Chapter.

(o) **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.

(p) **Inspection Warrants.** If the Building Inspector is denied access to inspect a property, he/she may request the City Attorney to seek an inspection warrant pursuant to Sec. 66.0119, Wis. Stats.

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### 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:


c. **IMC.** The *International Mechanical Code®,* subject to the modifications specified in SPS 364, 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 City of Washburn. 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 standards in Section 15-1-10 or the following requirements, whichever is more restrictive. 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 City 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 City of Washburn. 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 Wisconsin 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 320.10, Wis. Adm. Code.

2. **Subordinates.** The Building Inspector may appoint, as necessary, subordinates as authorized by the Common Council.

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 the 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 in the office of the City 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 City of Washburn. 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 City 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.**

Whenever the Building Inspector, Common Council and/or their designees find any building or part thereof within the City of Washburn 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, such City authorities shall order the owner to raze and remove such building or part thereof or, if it can be made safe by repairs, to repair.
and make safe and sanitary, or to raze and remove at the owner's option. Such order and proceedings shall be as provided in Sec. 66.0413, Wis. Stats.

**Sec. 15-1-7  Disclaimer on Inspections.**

The purpose of the inspections under this Chapter is to improve the quality of housing in the City. 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.**

Private garages shall be built in accordance with the general construction standards established in the Wisconsin Uniform Dwelling Code.

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

(a) No building within the City of Washburn shall be razed without a permit from the Building Inspector. A snow fence or other approved barricade shall be provided as soon as any portion of the building is removed and shall remain during razing operations. After all razing operations have been completed, the foundation shall be filled at least one (1) foot above the adjacent grade, the property raked clean, and all debris hauled away. Razing permits shall lapse and be void unless the work authorized thereby is commenced within six (6) months from the date thereof or completed within thirty (30) days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required thirty (30) days must have special approval from the Building Inspector.

(b) All debris must be hauled away at the end of each day for the work that was done on that day. No combustible material shall be used for backfill, but shall be hauled away. There shall not be any burning of materials on the site of the razed building. If any razing or removal operation under this Section results in, or would likely result in, an excessive amount of dust particles in the air creating a nuisance in the vicinity thereof, the permittee shall take all necessary steps, by use of water spraying or other appropriate means, to
eliminate such nuisance. The permittee shall take all necessary steps, prior to the razing of a building, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building as to prevent the spread and migration of rodents and insects therefrom during and after the razing operations.

Sec. 15-1-10 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 which is located in close proximity to a public sidewalk or street right-of-way as to constitute a hazard to pedestrian or vehicular traffic shall erect a fence, wall or railing at least four (4) feet high between such opening or excavation and the public right-of-way.

(c) **Closing of Abandoned Excavations.** Any excavation for building purposes or any uncovered foundation which shall remain open for more than three (3) months shall be deemed abandoned and a nuisance and the Building Inspector shall order that unless the erection of the building or structure on the excavation or foundation shall commence or continue forthwith suitable safeguards shall be provided to prevent accidental injury to children or other frequenters or that the excavation or foundation be filled to grade. Such order shall be served upon the owner of record or the owner's agent, where an agent is in charge of the premises, and upon the holder of an encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or the holder of an encumbrance of record cannot be found, the order may be served by posting it on the premises and make publication in the official newspaper for two (2) consecutive publications at least ten (10) days before the time for compliance stated in the order commences to run. Such time shall be not less than fourteen (14) nor more than twenty (20) days after service. If the owner of the land fails to comply with the order within the time required, the Building Inspector shall cause the excavation or foundation to be filled to grade. The cost of such abatement shall be charged against the real estate and entered on the next succeeding tax roll as a special charge and shall bear interest at a rate established by the Common Council from the date of the report by the Building Inspector on the cost thereof, pursuant to the provisions of the Wisconsin Statutes.

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, 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 City 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 City 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 Duplex Service Connections.**

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

**Sec. 15-1-13 Regulations for Moving Buildings.**

(a) **General Requirements.**

(1) No person shall move any building or structure upon any of the public ways of the City without first obtaining a permit therefor from the Building Inspector and upon
the payment of the required fee. Every such permit issued by the Building Inspector for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued.

(2) A report shall be made by City employees with regard to possible damage to trees. The estimated cost of trimming, removal and replacement of public trees, as determined by the City, shall be paid to the City Clerk prior to issuance of the moving permit.

(3) Issuance of moving permit shall further be conditioned on approval of the moving route by the Common Council.

(b) **Continuous Movement.** The movement of buildings shall be a continuous operation during all the hours of the day and at night, until such movement is fully completed. All such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lights shall be kept in conspicuous places at each end of the building during the night.

(c) **Street Repair.** Every person receiving a permit to move a building shall, within one (1) day after said building reaches its destination, report that fact to the Building Inspector, inspect the streets, highways and curbs and gutters over which said building has been moved and ascertain their condition. If the removal of said building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place them in as good repair as they were before the permit was granted. On the failure of the said permittee to do so within ten (10) days thereafter to the satisfaction of the Common Council, the City 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.

(d) **Conformance with Code.** No permit shall be issued to move a building within or into the City and to establish it upon a location within the said City 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 City 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.

(c) **Bond.**

(1) Before a permit is issued to move any building over any public way in the City, the party applying therefor shall give a bond to the City of Washburn in a sum to be
fixed by the Building Inspector and which shall not be less than One Thousand Dollars ($1,000.00), said bond to be executed by a corporate surety or two (2) personal sureties to be approved by the Common Council or designated agent conditioned upon, among other things, the indemnification to the City 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 City in connection therewith arising out of the removal of the building for which the permit is issued.

(2) Unless the Building Inspector, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the exposed excavation, such as to make intrusion upon the premises and the falling into such excavation of children under twelve (12) years of age unlikely, the bond required by Subsection (e)(1) shall be further conditioned upon the permittee erecting adequate barriers and within forty-eight (48) hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the Building Inspector and reasonably adopted or calculated to prevent the occurrences set forth herein.

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

(g) Definition. "Building" as used in this Section shall have the meaning as set forth in Sec. 348.27(12m)(a), Wis. Stats.

Sec. 15-1-14 Installation of Smoke- and Heat-Detecting Devices in Multiple Dwellings Units.

(a) Smoke-Detector Devices Required.

(1) The owner of every premises on which is located a dwelling unit within the City of Washburn shall install smoke-detection devices so located as to protect:
   a. The sleeping areas of each dwelling unit; and
   b. All public hallways on the premises; and
   c. All basement and storage areas.

(2) If sleeping areas are separated, the number of detection devices installed shall be that deemed sufficient by the City Fire Inspector to protect each sleeping area.

(b) Definitions. For the purposes of this Chapter, the following words and phrases shall have the following meanings:
(1) **Dwelling Unit.** A group of rooms constituting all or part of a dwelling which are arranged, designed, used or intended for use exclusively as living quarters.

(c) **Installation and Design Standards.**

(1) Installation of all devices shall be according to manufacturer's specifications.


(3) All smoke- and heat-detection devices shall bear the Underwriters' Laboratory seal of approval or Factory Mutual approval. All smoke-detection devices shall meet the Underwriters' Laboratory Standard 217. At least one (1) smoke- or heat-detection device shall be installed for every dwelling unit located so as to protect sleeping areas.

(4) In premises having multiple-dwelling units, additional devices connected to the building alarm system, if any, shall be installed in every corridor serving one (1) or more dwelling units and on every separate level of the building regardless of whether a sleeping area is located on such level. If a local fire alarm system is not provided or required, detection devices shall be connected to a signal outside of the enclosed area which shall be audible throughout the entire building.

(5) In premises having multiple dwelling units, in addition to smoke detectors in every living unit, all storage areas shall be protected with heat-sensing devices. These devices shall be connected to the building fire alarm system. If a local fire alarm system is not required, such device shall be connected to a signal outside of the enclosure which will be audible throughout the entire building. Heat-sensing devices shall be installed in place according to good engineering practice, but in no case shall detectors be spaced more than thirty (30) feet on centers and fifteen (15) feet from any wall.

(6) Heat-sensing devices shall be installed in all furnace, boiler and incinerator rooms in a premises having multiple dwelling units.

(d) **Owner Responsible for Installation of and Maintenance.** The owner of the premises having a multiple dwelling unit shall be responsible for the installation and/or maintenance of smoke- and heat-detection devices required by this Section unless the Fire Chief is notified in writing by registered mail of the designation of some other authorized, qualified individual to assume that responsibility and approval of this designation is given in writing by said Fire Chief.

(e) **Installation, Time for.** Detection devices required by this Section shall be installed within six (6) months of the effective date of this Section, except that existing premises are not required to install devices which are interconnected to signals outside of the enclosure in which they are placed.
Sec. 15-1-15 Building Permit Fees.

(a) The Building Permit Fee Schedule is as follows:

(1) New structures
$50.00 minimum fee + $.05 per square foot
(includes all areas such as basements & garages)

(2) Finished additions
$30.00 minimum fee + $.05 per square foot
(includes basements & decks)

(3) Major alterations
$30.00 minimum fee + $.05 per square foot
(covers construction only)

(4) Non-finished additions, garages & accessory buildings
$50.00 minimum fee + $.05 per square foot
(covers construction only)

(5) Special projects:
   Reroofing
   $15.00
   Residing
   $15.00
   Other minor work
   $15.00

(6) Conditional use permit
$30.00
(term - 3 years)
(initiation of tracking system 9/1/93)

(7) Reinspections beyond normal course of inspections to verify corrections or due to phased construction
$15.00

(8) Late permits
(work started before permit issuance)
Additional 50% fee (minimum fee $20.00)

(b) For administrative costs, 15% of the fee collected would be retained by the City; with the balance being compensation for the Zoning Administrator.

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.

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Sec. 15-1-17 Penalties and Violations.

(a) **Violations.** Any building or structure in the City of Washburn 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 Common Council and City 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 1-1-7 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 City of Washburn officials constitute a legal 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) **Parties to a Violation.**

(1) Any person who performs work for an owner of property or for an owner's authorized agent without a valid permit authorizing the work shall be a party to the violation and may be found to have violated the provisions of this Chapter to the same extent as if the person was the owner of the property whether or not the owner is found to have violated the same provision of this Chapter.

(2) It is an affirmative defense to a citation under this Subsection that the person performing work for an owner or owner's agent was given by the owner or the owner's agent a document purporting to be a valid permit for the work and which reasonably could be construed to be a valid permit, if and only if the person performing the work retained a copy of the document and produces it at trial.

(3) It is a violation of this Chapter for any unauthorized person to create a document that purports to be a permit under this Chapter. Any person found to have done so shall forfeit not less than One Thousand Dollars ($1,000.00) and not more than Five Thousand Dollars ($5,000.00), plus court costs, fees, and surcharges.

(4) Any person found to have violated Subsection (b)(1) above shall forfeit not less than Two Hundred and Fifty Dollars ($250.00) and not more than Five Thousand Dollars ($5,000.00), plus court costs, fees, and surcharges. Any person found to have violated Subsection (b)(1) who has been found to have violated Subsection (b)(1) at least once before within five (5) years shall forfeit not less than Five Hundred Dollars ($500.00) and not more than Five Thousand Dollars ($5,000.00), plus court costs, fees, and surcharges.

(c) **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 City of Washburn 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.

(d) **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 a non-UDC order or a determination of the Building Inspector and/or other City 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.

(e) **Liability.** Except as may otherwise be provided by the Statute or Ordinance, no officer, agent or employee of the City of Washburn 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 City 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 City until the final determination of the proceedings therein.
CHAPTER 2
Grievances Regarding Access to Public Buildings
by Handicapped Persons

15-2-1 Grievance Procedures Regarding Access to Public Buildings
by Handicapped Persons

SEC. 15-2-1 GRIEVANCE PROCEDURES REGARDING ACCESS TO PUBLIC
BUILDINGS BY HANDICAPPED PERSONS.

(a) **Statement of Purpose.** The City of Washburn is committed to providing adequate
access by handicapped or visually impaired persons to public buildings financed in
part by federal revenue sharing. This Section provides for a grievance procedure
providing for prompt and equitable resolution of complaints alleging any action
prohibited by Section 504 of the Rehabilitation Act of 1973, as amended (29
U.S.C. 794); Section 504 states, in part, that "no otherwise qualified handicapped
individual . . . shall, solely by reason of his handicap, be excluded from the
participation in, be denied the benefits of, or be subjected to discrimination
under any program or activity receiving federal financial assistance . . ."

(b) **Complaint Procedure.**

1. Complaints should be filed with the City Clerk, who has been designated to
coordinate Section 504 Compliance.

2. A complaint should be filed in writing or verbally, contain the name and
address of the person filing it, and briefly describe the alleged violation of
the regulations.

3. A complaint should be filed within thirty (30) days after the complainant
becomes aware of the alleged violation. (Processing of allegations of
discrimination occurring before this grievance procedure was in place will
be considered on a case-by-case basis.)

4. An investigation, as may be appropriate, shall follow a filing of a complaint.
The investigation will be conducted by an appropriate person designated by
the City Clerk who should review the handicapped Requirements Handbook
published by the Federal Programs Advisory Service.

5. A written determination as to the validity of the complaint and description
of the resolution, if any, shall be issued by the designated person and a
copy forwarded to the complainant no later than thirty (30) days after its
filing.

6. The Section 504 coordinator shall maintain the files and records of the City
relating to the complaints filed.

(c) **Appeals.**

1. The complainant may appeal the decision of the Section 504 coordinator
where he or she is dissatisfied with the resolution. The appeal request
shall be made within seven (7) days to the City Clerk.

2. The grievance shall be heard by the Common Council within ten (10)
working days after the filing of an appeals request. The grievance shall be
heard at the City Hall at a convenient time fixed by the Council. The City
Clerk shall give at least three (3) days' written notice to the applicant by
first class mail of any such grievance hearing.

3. Either party to the grievance may be represented, present evidence by
testimony or otherwise, cross-examine witnesses and make argument either
in person or by an agent of his or her choosing. Proceedings may, and, upon request of the applicant, shall, be recorded.

(4) The decision of the Common Council on the grievance appeal shall be in writing and shall state the reasons for the decision. The decision of the Council shall be rendered within three (3) working days of the close of the hearing and the Common Council shall immediately upon rendering the decision mail a copy thereof by first class mail to the applicant at the current post office address given in his or her application and record a copy of its determination with the City Clerk.

(d) Other Remedies. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person’s pursuit of other remedies such as the filing of a Section 504 complaint with the Office of Revenue Sharing, U.S. Department of the Treasury. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies. However, the City believes that resolution of the complaint will be more promptly achieved if the City is able to provide a remedy before the complaint is brought to an external organization.

(e) Due Process. This Section shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the City complies with Section 504 and the ORS regulations.
Sec. 15-3-1  Fair and Open Housing.

(a) The Common Council of the City of Washburn hereby adopts Sec. 106.50, Wis. Stats., as amended, and all subsequent amendments thereto.

(b) The officials and employees of the City of Washburn shall assist in the orderly prevention and removal of all discrimination in housing within the City of Washburn by implementing the authority and enforcement procedures set forth in Sec. 106.50, Wis. Stats., as amended.

(c) The Clerk-Treasurer shall maintain forms for complaints to be filed under Sec. 106.50, Wis. Stats., as amended, and shall assist any person alleging a violation thereof in the City of Washburn to file a complaint thereunder with the Wisconsin Department of Work Force Development, Equal Rights Division, for enforcement of Sec. 106.50, Wis. Stats., as amended.

State Law Reference: Sec. 106.50, Wis. Stats.
CHAPTER 3
Fair Housing

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

SEC. 15-3-1 STATEMENT ON FAIR HOUSING.

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

(b) The Common Council of the City of Washburn recognizes its responsibilities under Sec. 101.22, Wis. Stats., and endorses the concepts of fair and open housing for all persons and prohibition of discrimination therein.

(c) The Common Council of the City of Washburn hereby adopts Sec. 101.22, Wis. Stats., and all subsequent amendments thereto.

(d) The officials and employees of the City of Washburn shall assist in the orderly prevention and removal of all discrimination in housing within the City of Washburn by implementing the authority and enforcement procedures set forth in Sec. 101.22, Wis. Stats.

(e) The City Clerk shall maintain forms for complaints to be filed under Sec. 101.22, Wis. Stats., and shall assist any person alleging a violation thereof in the City of Washburn to file a complaint thereunder with the Wisconsin Department of Industry, Labor and Human Relations for enforcement of Sec. 101.22, Wis. Stats.

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

SEC. 15-3-2 DEFINITIONS AS USED IN THIS CHAPTER.

(a) Dwelling. Any building, structure, or portion thereof which is occupied as, or designed for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction thereof of any such buildings or structure.

(b) Family. One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy and receivers.

(c) Real Property. Buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.
(d) **Discrimination/Discriminatory Housing Practice.** Any difference in treatment based upon race, color, religion, sex, sexual preference, ancestry, handicap, marital status, place of birth or national origin; or any act that is unlawful under this Chapter.

(e) **Person.** Individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.

(f) **Owner.** Lessee, sublessee, co-tenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.

(g) **Financial Institution.** Any person as defined herein, engaged in the business of lending money or guaranteeing loans.

(h) **Real Estate Broker/Real Estate Salesman.** Any individual qualified by law, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

(i) **Housing Accommodation/Dwelling.** Any building, mobile home or trailer, structure, or portion thereof which is occupied as, or designed, or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any real property, as defined herein, used or intended to be used for any of the purposes set forth in this Subsection.

(j) **Mortgage Broker.** An individual who is engaged in or who performs the business or services of a mortgage broker as defined by Wisconsin Statutes.

(k) **Open Market.** The market which is informed of the availability for sale, purchase, rental or lease of any housing accommodation, whether informed through a real estate broker or by advertising by publication, signs or by any other advertising methods directed to the public or any portion thereof, indicating that the property is available for sale, purchase, rental or lease.

**SEC. 15-3-3 UNLAWFUL PRACTICES.**

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

(a) Refuse to sell, purchase, rent or lease, or deny to or withhold any housing accommodation from a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

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

(d) To refuse to negotiate for the sale, purchase, rental or lease of any housing accommodation to a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

(e) To represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his race, color, religion, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

(f) To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted, or mailed, any notice, statement or advertisement, or to announce a policy or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to make a discrimination; or

(g) To offer, solicit, accept or use a list of any housing accommodation for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease, or in the furnishing of facilities or services in connection therewith; or

(h) To induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth in the area to be affected by such sale, purchase, rental or lease will or may result in either:

1. The lowering of property values in the area;
2. An increase in criminal or antisocial behavior in the area; or
3. A decline in the quality of schools serving the area.

(i) To make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing of any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the City for the purpose of inducing or attempting to induce any such listing or any of the above transactions; or

(j) To engage in or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation; or

(k) To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this Chapter, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this Chapter; or

(l) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this Chapter; or to obstruct or prevent any person from complying with the provisions of this Chapter; or any orders issued thereunder; or
(m) By canvassing, to commit any unlawful practices prohibited by this Chapter; or

(n) Otherwise to deny to, or withhold any housing accommodation from, a person because of his race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth; or

(o) For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part, in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance because of the race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance which is to be made or given; or

(p) To deny any qualified person access to or membership or participation in any multiple-listing service, real estate brokers organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in their terms or conditions of such access, membership, or participation, on account of race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth.

SEC. 15-3-4 EXEMPTIONS.

This Chapter shall not apply to:

(a) A religious organization, association, or society or any nonprofit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy, of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such religion is restricted on account of race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, sex, age, or place of birth.

(b) A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members.

(c) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale the exemption granted by this Subsection shall apply only with respect to one such sale within any twenty-four (24) month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or served on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time; provided further, the sale, or rental of any such single-family house shall be excepted from the application of this Chapter only if such house is sold or rented:
(1) Without the use of any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(2) Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United States Code Section 3604; and

(3) Without the violation of Section 15-3-3 of this Chapter; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(d) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

SEC. 15-3-5 ENFORCEMENT.

Any person aggrieved by an unlawful practice prohibited by this Chapter may file a complaint with the Common Council within thirty (30) days after the aggrieved person becomes aware of the alleged unlawful practice and in no event more than sixty (60) days after the alleged unlawful practice has occurred. The Common Council or duly authorized representative shall receive each complaint and attempt to resolve each complaint. Failure to achieve a resolution acceptable to both parties and compliance with this Chapter shall cause the Common Council to forward the complaint and findings to appropriate state and federal agencies.
Title 15 ▶ Chapter 4

Minimum Housing Code

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Sec. 15-4-1 Title.

This Chapter shall be known as the City of Washburn Minimum Housing Code.

Sec. 15-4-2 Intent and Purpose.

(a) This Chapter is adopted for the purpose of preserving and promoting the public health, safety, comfort, convenience, prosperity, and general welfare of the people of the City of Washburn and environs. This includes, among others, physical, aesthetic, and property values.

(b) It is recognized that there may now be or may, in the future, be residential buildings, structures, yards or vacant areas, and combinations thereof which are so dilapidated, unsafe, dangerous, unhygienic, overcrowded, inadequately maintained or lacking in basic equipment or facilities, light, ventilation, and heating so as to constitute a menace to the health, safety, and general welfare of the people. The establishment and enforcement of minimum housing and property maintenance standards is necessary to preserve and promote the private and public interest.
Sec. 15-4-3 Rules and Definitions.

(a) Rules. In the construction 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) Adequate. Adequate as determined by the Building Inspector under the regulations 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.

(2) Apartment. One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities arranged for use by one (1) family.

(3) Approved. Approved by the Building Inspector under the regulations of this Chapter or approved by an authority designated by law, this Chapter or this Code of Ordinances.

(4) Attractive Appearance. An appearance which is in accordance with generally accepted professional practices for new construction within the City and which is not likely to adversely affect the values of abutting or neighborhood properties, or of the principal property.

(5) 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. Same as "Cellar".

(6) Boarding House. See "Lodging House" and "Lodging Room."

(7) Building. A combination of material to form a construction that is safe and stable and adapted to permanent or continuous occupancy for assembly, business, educational, high hazard, industrial, institutional, mercantile, residential, or a storage purpose; the term "building" shall be construed as if followed by the words "or portion thereof." For the purpose of this Chapter, each portion of a building completely separated from other portions by an unperced fire wall shall be considered as a separate building.

(8) Capacity in Persons. The "capacity in persons" of a building is the maximum number of persons that can occupy such building, as determined by the required floor space per person as established in this Chapter.

(9) Compliance Inspection. An inspection performed in conjunction with a lawful order of the Common Council, City Administrator or Building Inspector for the purpose of certifying the fulfillment of an official requirement listed in the order.
(10) **Dwelling.** A place of abode, a residence, or a house for use by one (1) or more persons, excluding hotels or motels.

(11) **Dwelling Unit.** One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities arranged for use by one (1) family.

(12) **Extermination.** The control or elimination of infestation 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.

(13) **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 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.

(14) **Good Working Condition.** Capable of performing the task for which it was designed and in the manner intended by this Chapter.

(15) **Habitable Space.** One (1) or more rooms in a dwelling used primarily for sleeping, living, or dining purposes.

(16) **Impervious to Water.** Constructed of concrete, cement block, terrazzo, brick, tile, or other material approved by the Building Inspector, and having tight-fitting joints.

(17) **Infestation.** The sustained presence of household pests, vermin, or rodents.

(18) **Living Room.** A room used primarily for living, dining, or cooking purposes.

(19) **Lodging House.** A dwelling containing lodging rooms that will accommodate five (5) or more persons not members of a family.

(20) **Lodging Room.** A portion of a dwelling used primarily for sleeping and living purposes, excluding cooking facilities.

(21) **Mixed Occupancy.** Occupancy of a building in part for residential use and in part for some other use not accessory thereto.

(22) **Occupant.** One who occupies or has actual possession of usable space.

(23) **Operator.** Any person who has charge or control of a building or part thereof in which dwelling units or lodging rooms are located or let.

(24) **Owner.** Every person, firm, partnership, or any individual member thereof, corporation, business organization of any kind, the state, the county, the City, any sewer district, drainage district, and any other public or quasi-public corporation having vested interest in the property under consideration and shall include the representative, officer, agent, or other person having the ownership, control, custody, or management of any building. "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.

(25) **Person.** Shall mean and include any individual, firm, corporation, association, or partnership.

(26) **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.

(27) **Provided.** Furnished, supplied, paid for or under control of the owner.

(28) **Residential Building.** A building which is arranged, designed, used, or intended to be used for residential occupancy by one (1) or more families 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. Lodging houses.
   e. Fraternity and sorority houses.
   (For the purpose of this Chapter, any building containing any of the above uses together with other uses shall be considered a residential building.)

(29) **Rooming House.** See "Lodging House" and "Lodging Room."

(30) **Sleeping Room.** A room used for sleeping purposes.

(31) **Structure.** Anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground.

(32) **Supplied.** Paid for, furnished, or provided by or under control of the owner or operator.

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**Sec. 15-4-4 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, and electrical services for all residential buildings and parts thereof 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 by adequate water and sanitary facilities, proper storage, and disposal of garbage, recyclables and other refuse, safe means of egress, 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 for the purpose of living, sleeping, cooking, or eating therein which does not comply with the following requirements:

(1) **Basic Plumbing Requirements.** Every dwelling unit shall contain a kitchen sink, a flush water closet, 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. The flush water closet, lavatory basin, and bathtub or shower shall be contained within a separate room. Water pressure shall be available at all fixtures as specified in the State Plumbing Code.

(2) **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.

(3) **Refuse Storage.** Each resident in every residential building shall be responsible for supplying such building with garbage, refuse and recyclable materials storage facilities, the type and location of which is in compliance with City regulations.

(4) **Egress.** Every dwelling unit and lodging room shall have direct access to at least two (2) accessible unobstructed means of egress leading to a safe and open public street, alley, or court connected to a street. Exterior stairways or exit platforms, or a combination thereof, will be 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. All stairs 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 by four (4) feet. All stairways and platforms shall be protected with handrails and guardrails as specified in the Uniform Dwelling Code. Existing variances to the height limitations specified above may be approved by the Board of Appeals, provided the platforms or stairs are maintained in a sound structural condition.

(5) **Plumbing.** Each lodging house shall provide at least one (1) flush water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition for each eight (8) persons or fraction thereof residing therein, including members of the operator’s family wherever they share the use of said facilities, except that the required number of bathtubs or showers may be reduced by the Board of Appeals for lodging houses utilizing gang bathrooms containing multiple bathtubs or showers. All such 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.

(6) **Windows and Ventilation.**

a. Every living and sleeping room shall have available for natural light and ventilation windows, sky lights, or glazed doors opening to sky, street, court, alley, or approved yard area on the same lot with the building. The area required for natural light shall be equal to ten percent (10%) of the floor area but not less than nine (9) square feet and at least fifty percent (50%) of the required area shall be openable for natural ventilation where there is no mechanical air conditioning.
Openable areas in adjacent rooms may serve kitchens or alcoves without exterior windows, provided that the area of connecting opening is not less than twenty percent (20%) of the area served and the outside opening shall be based on the total included floor area.

b. Exhaust ventilation shall be installed in all toilet rooms, except those having only one (1) fixture [water closet 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 required for ventilation shall be protected with insect screen equivalent to not less than sixteen (16) wire mesh installed to prevent the entrance of flies, mosquitoes and other insects, to be annually installed during May before June 1 and maintained until storm windows are installed in autumn.

d. All exterior door and windows shall have storm windows or storm doors installed or maintained to prevent excessive drafts and heat loss no earlier than October 15th, but no later than November 15th annually, except where permanent and openable.

e. 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.

(7) Electrical.

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, shall be maintained in good and safe working conditions, and shall be connected to a source of electric power in a manner prescribed by the Wisconsin Electrical Code. The minimum capacity of such electrical services and the minimum number of outlets and fixtures shall be as listed below. (For the purposes of this Section, "electrical service" shall mean: "The conductors and equipment for delivering electrical energy from the supply system to the wiring system of the premises or the unit served."). The electrical service shall be of sufficient size to handle the load connected to it. The branch circuits shall be protected by S-type or equivalent safety type, tamper-proof fuses, not to exceed the ampacity of the smallest wire size in the circuit.

b. Every habitable room of such dwelling shall contain at least two (2) separate floor or wall-type electric convenience outlets, or one (1) such convenience outlet and one (1) supplied ceiling-type electric light fixture; and every water closet compartment, bathroom, laundry room, and public hall shall contain at least one (1) supplied ceiling or wall-type electric light fixture. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.
c. Convenience outlets are to be located to prevent use of extension cords (NEC 400-8). All cords, temporary wiring, and exposed abandoned wiring shall be removed.

(8) **Heating.**
   a. All habitable rooms shall be provided with a permanently connected heating system complying with the City ordinances.
   b. The heating system shall be maintained in a safe and efficient condition by a qualified person and a record kept at the premises showing the date of service and by whom. A minimum temperature of sixty-five (65) degrees Fahrenheit shall be maintained in all habitable rooms when the outdoor temperature is above zero (0) degrees Fahrenheit, absent the wind-chill factor, and a minimum temperature of sixty (60) degrees Fahrenheit shall be maintained in all habitable rooms when the outdoor temperature is zero (0) degrees Fahrenheit or lower, absent the wind-chill factor. The outdoor temperature for the City shall be the temperature as reported by the National Oceanic and Atmospheric Administration and the reports thereof shall be admissible in evidence and conclusive as to temperature.
   c. The occupant of a room or an apartment may maintain a lesser temperature than is specified above as long as it does not affect the temperature in other habitable areas of the building.

(9) **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 lodging 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 the 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 used.

(10) **Cooking Areas Restricted.** The owner or operator of every residential building shall not provide, use, or permit to be used and the occupant shall not provide, use, or permit to be used, in any room other than a kitchen, any equipment designed or intended to be used for cooking or preparation of meals.

(11) **Emergency Work 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. The names with the telephone numbers shall be posted in a conspicuous place readily accessible to the occupants. The names with
the telephone numbers shall be revised periodically to maintain accurate information at all times.

Sec. 15-4-5 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 City and provide a suitable environment for increasing physical and monetary values.

(b) **Maintenance Requirements.** Every owner or operator shall improve and maintain all property under his control to comply with the following minimum requirements:

1. **Drainage.** All courts, yards, or other areas on the premises shall be properly graded to divert water away from the building. 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 and downspout extensions.

2. **Weeds.** All exterior property areas shall be kept free from noxious weeds as required by this Code of Ordinances and the Wisconsin Statutes. Where required weed and grass cutting is not performed by the property owner, the Weed Commissioner shall perform said weed cutting and process the charge therefor as a special charge against the benefitted property.

3. **Debris.** 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, and animal feces. All animal feces shall be removed within twenty-four (24) hours.

4. **Fences, Walks, Parking Areas.** Fences, other minor construction, walks, driveways, parking areas, and similar paved areas shall be properly maintained in a safe, sanitary and substantial condition. Approved walks shall provide convenient all-weather access to buildings.

5. **Exterior Surfaces.** Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking, or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. All paint or other preservative shall be applied in a workmanlike fashion.

6. **Yard Areas.** 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, or building material not used within ten
(10) days, or any unsightly bulk items. Landscaping, plantings and other decorative
surface treatments, including common species of grass, shall be installed if necessary
and maintained to present an attractive appearance in all court and yard areas. Lawns
shall be maintained to a height in compliance with City ordinances. 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 City. The City, after due notice to the property
owner, will cause to be cut or trimmed nonconforming areas and place said cost as
a special charge due against the property.

(7) **General Requirements.**

a. Every interior floor, wall, and ceiling, including door and window assemblies,
shall be kept 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 color and texture. Floor surfacing shall provide ease of maintenance and
durability appropriate for the use of the room.

b. Every foundation, exterior wall, and floor and roof shall be reasonably
weathertight, watertight, and rodentproof 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 breeching
shall be so constructed and maintained so as to insure that it safely and properly
removes the products of combustion from the building.

c. 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.

(8) **Windows and Doors.**

a. Every window, exterior door, interior door, and basement hatchway shall be
reasonably weathertight, watertight, and rodentproof and kept in proper repair.
All door and window hardware shall be installed and maintained in proper
working condition.

b. Each main entrance door into a non-owner occupied dwelling unit shall contain
an approved door viewer, except where a window in the door, or a window
immediately adjacent to the doorway, provides a clear view of the entrance.

c. All doors into each dwelling unit shall be equipped with door hinges so arranged
as to be inside the dwelling unit or with approved locking pin hinges.
d. All doors into each dwelling unit shall have a keyed deadbolt lock with a minimum one (1) inch throw, which is openable with a key on the exterior side of the door and a knob on the interior side of the door. The strike plate shall be held in place by two and one-half (2-1/2) inch screws. Patio doors shall have an approved secondary locking device [i.e., locking pins or two by fours (2 x 4s) of proper length].

e. All basement, first, and second story windows and all other windows accessible by balconies, fire escapes, trees, or other existing means shall be provided with sash fasteners.

f. All double-hung and sliding windows and doors below the second story and all other double-hung and sliding windows accessible by balconies, fire escapes, trees or other existing means shall be equipped with approved window ventilating sash fasteners to allow each window to be located at one (1) to five (5) inches open. Such window ventilating bolts or locks shall be movable to permit the window to be fully opened from the inside of the dwelling unit.

g. Alternative locking devices to equally resist illegal entry may be substituted with the approval of the Board of Appeals.

(9) **Stairs.** Every inside and outside stair, every 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 the Wisconsin Uniform Dwelling Code, as dictated by the type of occupancy in the building.

(10) **Plumbing Fixtures.** Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good working condition, free from defects, leaks, and obstructions.

(11) **Bathrooms.** 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 clean and sanitary condition.

(12) **Supplied Facilities.**

a. Every supplied facility, piece of equipment, or utility 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 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.
(13) **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 lodging room let or occupied by him, 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.

(14) **Abandoned Fuel Oil Tanks.** Abandoned fuel oil tanks shall be removed from the building. However, abandoned fuel oil tanks may remain in the building provided:
   a. All fuel oil is removed from the tank.
   b. The tank fill piping is removed and the tank openings plugged with pipe fittings.
   c. The oil supply line is removed and the opening is plugged with pipe fittings.
   d. The tank vent remains connected and terminates outside the building at least two (2) feet above grade.

(15) **Removal of Debris.**
   a. No person shall dispose of rocks, trees, stumps, waste building material, or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of any land in the City, except at approved disposal sites.
   b. No land owner shall allow an accumulation of rocks, trees, stumps, waste building material or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of his land for a period of more than ten (10) days.
   c. All vacant lands within the City shall be leveled off to permit the mowing of weeds as outlined within this Code. This includes the removal of stones, bottles, wires and other debris that will interfere with mowing operations.
   d. All lands in the City shall be kept free of weeds and maintained so there is no detrimental influence to the public health, safety, comfort or general welfare of the immediate neighborhood or community.

**Sec. 15-4-6 Quantity, Location, 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 interest. A suitable environment for safe, healthy, and desirable living can be enhanced by providing adequate space and privacy for occupants of all residential buildings.

(b) **Size of Dwellings and Rooms.**
   (1) **Detached Single-Family Dwellings.** Every detached single-family dwelling other than a mobile home shall have the minimum residential living area as set forth in Title 13, Section 8-70 and Appendix B of the Zoning Code.
(2) **Size of Rooms.**
   a. Apartments. The floor area of an apartment shall provide not less than one hundred fifty (150) square feet of floor area for the first occupant and at least one hundred (100) additional square feet of floor area for each additional occupant.
   b. Lodging Rooms. The floor area of a lodging 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.** The space used as a laundry, workshop, furnace room, bathroom, storage room, closets, and common halls shall not be included as part of the space required in Subsections (b)(1) and (2) above.

(4) **Hallways.** Access to all lodging and sleeping rooms shall be from a common hallway and not through bathrooms or other lodging and sleeping rooms.

(5) **Basement Use as a Sleeping Area.** No basement space shall be used for a sleeping room unless:
   a. The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness.
   b. The total window area in each room is equal to at least the minimum window area required in this Chapter. The required minimum window area must be located entirely above the grade of the ground adjoining such window area.
   c. The total of openable window area in each room is equal to at least the minimum as required under this Chapter, except where there is supplied some other device affording adequate ventilation and approved by the Building Inspector.

**Sec. 15-4-7 Fixing the Responsibility of Owners, Operators and Occupants.**

(a) **Purpose.** The purpose of this Section is to fix the responsibility of owners, operators, and occupants of residential buildings.

(b) **Responsibilities.** The responsibility of owners, operators, and occupants of residential buildings is as follows:
   (1) Every owner of a residential building containing two (2) or more dwelling units shall be responsible for maintaining in a clean, proper, and sanitary condition the shared or public areas of the residential building and premises thereof.
   (2) Every occupant of a residential building shall keep in a clean, proper, and sanitary condition that part of the residential building and premises thereof which he/she occupies and controls, except the operator of every lodging house shall be responsible for the sanitary maintenance of all walls, floors, ceilings, and every other part of the lodging house. Every occupant of a residential building shall dispose of all his refuse, recyclables, and garbage as required by this Code of Ordinances.
(3) Every owner of a residential building shall be responsible for hanging, installation, and maintenance of all screens and double or storm doors and windows, whenever the same are required under provisions of this Code of Ordinances.

(4) Every owner of a residential building shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises. In all residential buildings, except for single-family dwellings and owner-occupied two-family dwellings, extermination services shall be performed by a licensed exterminator.

(5) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(6) The owner or operator shall not occupy or let to another for occupancy any space in a residential building unless it is clean, sanitary, fit for human occupancy, complies with the requirements of this Chapter and compliance inspections/orders thereunder, and the occupancy is limited to the maximum permitted thereby.

(7) Every owner of a lodging house shall make available to the occupants the names of two (2) or more persons that may be called to arrange for emergency work. The names with the telephone numbers shall be posted in a conspicuous place readily accessible to the occupants. The names with the telephone numbers shall be revised periodically to maintain accurate information at all times.

(8) The operator of every lodging house shall change supplied linen and towels therein at least once each week and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary condition.

Sec. 15-4-8 Inspection.

(a) The Building Inspector is authorized and empowered to inspect all residential buildings within the City for the purpose of determining whether or not said residential buildings comply with the requirements of this Chapter. If any owner or occupant denies the Building Inspector entry into any residential building or portion thereof, the Building Inspector is authorized to obtain inspection warrants from an appropriate court and then enter and inspect said residential building pursuant to the authority of such warrant.

(b) No owner of a residential building may deny the Building Inspector 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 inspection.

Sec. 15-4-9 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 and guidelines:
(a) Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Building Inspector:

(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 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 or of the public.

(3) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health, safety, or welfare of the occupants or of the public.

(4) One which, because of its general condition, location or appearance, is a blighting influence or causes decreasing physical or monetary value of property in the neighborhood.

(b) Any dwelling, dwelling unit, building or structure designated and placarded as unfit for human habitation and in need of repair by the Building Inspector shall be vacated within such a reasonable time as is ordered by the Common Council or Building Inspector.

(c) 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. The Building Inspector shall remove such placard whenever the defect or defects upon which the designation and placarding action were based have been eliminated.

(d) 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) Any person affected by any notice or order relating to the condemning and placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a hearing on the matter before the Building Inspector under the procedure set forth in Section 15-4-10.

Sec. 15-4-10 Enforcement, Service of Notices and Orders and Hearings.

(a) (1) Whenever the Common Council or its representative 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, notice shall be given of such alleged violation to the person or persons responsible therefor as hereinafter provided. Such notice shall:

a. Be in writing.
b. Include a statement of the reasons why it is being issued.
c. Allow 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 agent or upon such occupant, if a copy thereof is served upon him/her personally; or if a copy thereof is sent by registered mail to his/her last-known address; or if a copy thereof is posted in a conspicuous place in or about the dwelling or dwelling unit affected by the notice; or if he/she is served with such notice by any other method authorized or required under the laws of this state.

(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) Whenever there has been notice of a violation 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) Any person affected by any notice which has been issued in connection with 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 Common Council, provided that such person shall file, in the office of the City Clerk, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice was served. Upon receipt of such petition, the Common Council or authorized representative 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 show 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 application of the petitioner, the Common Council or authorized representative may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if, in its judgment, the petitioner has submitted a good and sufficient reason for such postponement.

(d) Following such hearing, the Common Council or authorized representative shall sustain, modify, or withdraw the notice, depending upon its findings as to whether the provisions of this Chapter and of the rules and regulations adopted pursuant thereto have been complied with. If the Common Council or authorized representative sustains or modifies such notice, it shall be deemed to be an order. 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 City Clerk within ten (10) days after such notice is served. Following a hearing in the case of any notice suspending any permit required for this Chapter or by any rule or regulation adopted pursuant thereto, when such notice has been sustained by the
Common Council or authorized representative, 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 City Clerk within ten (10) days after such notice is served.

(c) The proceedings at such hearing, including the findings and decision of the Common Council or authorized representative, 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. Any person aggrieved by the decision of the Common Council or authorized representative may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.

(f) Whenever the Common Council or authorized representative finds that an emergency exists which requires immediate action to protect the public health, safety, or welfare, it may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Notwithstanding the other provisions of this Chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Common Council or authorized representative shall be afforded a hearing as soon as possible. After such hearing, 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, the Common Council or authorized representative shall continue such order in effect, or modify it, or revoke it.

(g) Determinations of the Building Inspector under this Section may be appealed to the Board of Appeals using the procedures prescribed in Title 13, Chapter 1 of this Code of Ordinances.
CHAPTER 5
Commercial and Exterior Maintenance Code

15-5-1 Title
15-5-2 Intent and Purpose
15-5-3 Rules and Definitions
15-5-4 Safe, Sanitary and Attractive Maintenance of Property
15-5-5 Fixing Responsibility of Owners, Operators and Occupants
15-5-6 Enforcement, Service of Notices and Orders and Hearings

SEC. 15-5-1 TITLE.

This Chapter shall be known as the Commercial Exterior Maintenance Code.

SEC. 15-5-2 INTENT AND PURPOSE.

(a) This Chapter is adopted for the purpose of preserving and promoting the public health, safety, comfort, convenience, prosperity, and general welfare of the people of the City and environs. This includes, among others, physical, aesthetic and monetary values.

(b) It is recognized that there may now be or may, in the future, be commercial buildings, structures, yards, or vacant areas and combinations thereof which are so dilapidated, unsafe, dangerous, unhygienic, or inadequately maintained so as to constitute a menace to the health, safety, and general welfare of the people. The establishment and enforcement of minimum commercial property maintenance standards is necessary to preserve and promote the private and public interest.

SEC. 15-5-3 RULES AND DEFINITIONS.

(a) Rules. In the construction 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.

(1) Adequate - "Adequate" shall mean adequate as determined by the Building Inspector under the regulations of this Chapter or adequate as determined by an authority designated by law or this Chapter. "Adequately" shall mean the same as adequate.

(2) Approved - "Approved" shall mean approved by the Building Inspector under the regulations of this Chapter or approved by an authority designated by law or this Chapter.
(3) **Attractive Appearance** -- "Attractive appearance" shall mean an appearance which is in accordance with generally accepted professional practices for new construction within the City and which is not likely to adversely affect the values of abutting or neighborhood properties, or of the principal property.

(4) **Commercial** -- "Commercial" shall mean not residential.

(5) **Commercial Use** -- "Commercial use" shall mean any nonresidential use.

(6) **Building** -- "Building" means a combination of material to form a construction that is safe and stable, and adapted to permanent or continuous occupancy for assembly, business, educational, high hazard, industrial, institutional, mercantile, or a storage purpose; the term "building" shall be construed as if followed by the words "or portion thereof." For the purpose of this Code, each portion of a building completely separated from other portions by an unpierced fire wall shall be considered as a separate building.

(7) **Good Working Condition** -- "Good working condition" shall mean capable of performing the task for which it was designed and in the manner intended by this Chapter.

(8) **Impervious to Water** -- "Impervious to water" shall mean constructed of concrete, cement block, terrazzo, brick, tile, or other material approved by the Building Inspector, and having tight-fitting joints.

(9) **Mixed Occupancy** -- "Mixed occupancy" shall be occupancy of a building in part for commercial use and in part for some other use not accessory thereto.

(10) **Occupant** -- "Occupant" means one who occupies or has actual possession of usable space.

(11) **Operator** -- "Operator" shall mean any person who has charge or control of a commercial property or part thereof.

(12) **Owner** -- The term "Owner" shall mean every person, firm, partnership, or any individual member thereof, corporation, business organization of any kind, the state, the county, the City, any sewer district, drainage district, and any other public or quasi-public corporation having vested interest in the property under consideration and shall include the representative, officer, agent, or other person having the ownership, control, custody, or management of any building.

(13) **Person** -- A "person" shall mean and include any individual, firm, corporation, association, or partnership.

(14) **Property** -- "Property" shall mean as deemed proper under the regulations of this Chapter or deemed proper by an authority designated by law or this Chapter.

(15) **Provided** -- "Provided" shall mean furnished, supplied, paid for or under control of the owner.

(16) **Structure** -- "Structure" is anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground, or attached to something having permanent location on the ground.

(17) **Supplied** -- "Supplied" shall mean paid for, furnished, or provided by or under control of the owner or operator.
SEC. 15-5-4  SAFE, SANITARY, AND ATTRACTIVE 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 commercial buildings, structures, yards, or vacant areas. Attractive and well-maintained property will enhance the neighborhood and City and provide a suitable environment for increasing physical and monetary values.

(b) **Minimum Requirements.** Every owner or operator shall improve and maintain all property under their control to comply with the following minimum requirements:

1. **Drainage.** All courts, yards, or other areas on the premises shall be properly graded to divert water away from any building or structure. Adjacent ground surface shall be sloped away from any building or 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 and downspout extensions.

2. **Weeds.** All exterior property areas shall be kept free from noxious weeds as required by this Code of Ordinances. Where weed cutting is required, the Weed Commissioner shall perform said weed cutting and process the charge therefor as a special assessment against the benefitted property.

3. **Debris.** 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, and animal feces. All animal feces shall be removed within twenty-four (24) hours.

4. **Fences, Walks, and Parking Areas.** Fences, other minor construction, walks, driveways, parking areas, and similar paved areas shall be properly maintained in a safe, sanitary, and substantial condition. Approved walks shall provide all-weather access to buildings or structures.

5. **Exterior Surfaces.** Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. All paint or other preservative shall be applied in a workmanlike fashion.

6. **Yard Areas.** 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 (which are not used as an integral part of the authorized business carried out on the premises), debris, or refuse. Yards shall not be used to store appliances, furnaces, hot water heaters, water softeners, or building material not used within five (5) days, or any unsightly bulk items, unless these items are raw materials used in the business carried out on the premises.

7. **General Requirements.** Every foundation, exterior wall, and roof shall be reasonably weathertight, watertight, and rodentproof 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 breeching shall be so constructed and maintained so as to insure that it safely and properly removes the products of combustion from the building.

8. **Windows and Doors.** Every window, exterior door, and basement hatchway shall be reasonably weathertight, watertight, and rodentproof and kept in
proper repair. All door and window hardware shall be installed and maintained in proper working condition.

(9) **Outside Stairs and Porches.** Every outside stair, every 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 exterior stairs and steps and every appurtenance thereto shall comply with the requirements specified in the Wisconsin Administrative Code.

(10) **Removal of Debris.**

a. No person shall dispose of rocks, trees, stumps, waste building material, or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of any land in the City, except at approved disposal sites.

b. No land owner shall allow an accumulation of rocks, trees, stumps, waste building material or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of his land for a period of more than ten (10) days.

c. All land filling operations shall be leveled off to permit the mowing of the weeds between June 1 and November 1. This includes the removal of stones, bottles, wire, and other debris that will interfere with mowing operations.

SEC. 15-5-5 **FIXING RESPONSIBILITY OF OWNERS, OPERATORS AND OCCUPANTS.**

Every owner, operator, or occupant of a commercial property, or part thereof, shall maintain that portion of the exterior of the property controlled by him.

SEC. 15-5-6 **ENFORCEMENT, SERVICE OF NOTICES AND ORDERS AND HEARINGS.**

Whenever the Common Council or its designee 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, he shall give notice of such alleged violation to the person or persons responsible therefor and commence an enforcement action pursuant to Section 15-4-10.
Sec. 15-6-1 Authority.

(a) Findings of Fact. The Common Council finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to Lake Superior and other waters of the City of Washburn and the State of Wisconsin.

(b) Purpose and Intent. It is the intent of this Chapter to accomplish the following:
   (1) Further the maintenance of safe and healthful conditions;
   (2) Prevent and control water pollution;
   (3) Protect spawning grounds, fish and aquatic life;
   (4) Control building sites, placement of structures and land uses;
   (5) Preserve ground cover and scenic beauty; and
   (6) 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 in and around the City of Washburn.

(c) Statutory Authority.
   (1) This Chapter is adopted under the authority granted by Sec. 62.234, Wis. Stats. This Chapter supersedes all provisions of any ordinance(s) previously adopted under Sec. 62.23, Wis. Stats., relating to construction site erosion control.
(2) If any provision of this Chapter is in conflict with the uniform statewide standards adopted by the Wisconsin Department of Natural Resources under Sec. 281.33, Wis. Stats, that provision shall be modified to be in compliance therewith, except as such deviation may be permitted under Sec. 281.33, Wis. Stats., or NR 152, Wis. Adm. Code, or as it addresses an activity or standard not covered by applicable state law.

(d) Other Regulations. The provisions of this Chapter are deemed not to limit any other lawful regulatory powers of the Common Council.

(e) Administration. The Common Council hereby designates the Public Works Director to administer and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Public Works Director may be delegated in writing by the Public Works Director to persons or entities acting in the beneficial interest or in the employ of the City of Washburn.

Sec. 15-6-2 Applicability and Jurisdiction.

(a) Applicability. This Chapter applies to the following land disturbing activities, except as provided under Subsection (b) below, if:

(1) Land disturbing construction activity that disturbs ten thousand (10,000) square feet or more; or

(2) Any land disturbing construction activity that, cumulatively together with any other land disturbing construction activity on the same parcel within the past five years, disturbs ten thousand (10,000) square feet or more; or

(3) Any land disturbing construction activity that disturbs an area of any size that, in the opinion of the Public Works Director, 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) Inapplicability. This Chapter does not apply to the following land disturbing activities:

(1) Land disturbing construction activity that includes the construction of a building and is otherwise regulated by the Wisconsin Department of Safety and Professional Services under SPS 320-325 or 361-366, Wis. Adm. Code, or the Wisconsin Department of Natural Resources NR 216, Wis. Adm. Code.

(2) 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 Ch. 40, Code of Federal Regulations, Part 122, for land disturbing construction activity.

(3) Non-point discharges from agricultural facilities and practices.

(4) Non-point discharges from silviculture activities.

(5) 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.
(6) Activities conducted by a state agency, as defined under Ch. 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 Ch. 281.33(2), Wis. Stats.

(c) **Jurisdiction.** This Chapter applies to land disturbing construction activities on lands within the boundaries and jurisdiction of the City of Washburn, as well as all lands located within the extraterritorial plat approval jurisdiction of the City of Washburn [the unincorporated area within one and one-half (1.5) miles of the City], even if plat approval is not involved, pursuant to Sec. 236.45(2) and (3), Wis. Stats.

### Sec. 15-6-3 Definitions.

The following definitions shall be applicable in this Chapter:

(a) **Definitions Established.** The following definitions shall be applicable in this Chapter:

(1) **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.

(2) **Agricultural Facilities and Practices.** Has the meaning in Sec. 281.16(1), Wis. Stats.

(3) **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".

(4) **Average Annual Rainfall.** A calendar year of precipitation, excluding snow, which is considered typical. The average annual rainfall is based on figures for the National Weather Service Office in Duluth, MN. As of the end of 2016, that figure was thirty-one (31) inches.

(5) **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.

(6) **Business Day.** A day the Office of the Public Works Director is routinely and customarily open for business.

(7) **Cease and Desist Order.** A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

(8) **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.

(9) **Erosion.** The process by which the land's surface is worn away by the action of wind, water, ice or gravity.

(10) **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.

(11) **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.

(12) **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.

(13) **Governing Body.** The Common Council of the City of Washburn.

(14) **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.

(15) **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.

(16) **Performance Standard.** A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(17) **Permit.** Written authorization made by the Public Works Director to the applicant to conduct land disturbing construction activity.

(18) **Pollutant.** Has the meaning given in Section 283.01(13), Wis. Stats.

(19) **Pollution.** Has the meaning given in Section 281.01(10), Wis. Stats.

(20) **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.

(21) **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.

(22) **Sediment.** Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
Sec. 15-6-4 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. Technical Standards identified and approved by the Wisconsin Department of Natural Resources (WisDNR) in accordance with NR 151, Wis. Adm. Code.
2. Other design guidance and technical standards identified and approved by the City of Washburn.
3. For this Chapter, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

(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 Public Works Director.

Sec. 15-6-5 Performance Standards.

(a) **Responsible Party Plan Requirement.** The responsible party (property owner or the owner's agent) shall implement a written erosion and sediment control plan for each
construction site, developed in accordance with that required by this Chapter and the Wisconsin Department of Natural Resources.

(b) **Plan.** A written plan shall follow the requirements set forth in NR 216.46, Wis. Adm. Code, and shall be implemented for each construction site.

(c) **Location.** The best management practices used to comply with this Chapter shall be located prior to runoff entering the waters of the State.

(d) **Erosion and Other Pollutant Control Plan 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 erosion controls 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 (d)(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.

(e) **Alternate Requirements.** The Public Works Director may establish stormwater management requirements more stringent than those set forth in this Section if the Public Works Director determines that an added level of protection is needed for sensitive resources.
Sec. 15-6-6  Implementation and Maintenance Relating to an Approved Erosion and Sediment Control Plan.

All permits shall require the responsible party to do the following:

(a) Notify the Public Works Director within two (2) full business days before commencing any land disturbing construction activity.

(b) File a notice of completion with the Public Works Director of all land disturbing activities and/or installation of BMPs within fourteen (14) days after their installation.

(c) Obtain permission in writing from the Public Works Director prior to any modification to the approved sequencing of construction of the site.

(d) Install all BMPs as identified in the approved erosion and sediment control plan.

(e) Maintain all road drainage systems, stormwater drainage systems, BMP’s and other facilities identified in the erosion and sediment control plan.

(f) 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.

(g) 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.

(h) Allow the Public Works Director 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, and allow the Public Works Director access to all inspection logs for best management practices.

(i) Throughout the duration of the construction activity, maintain all best management practices necessary to meet the requirements of this Chapter until the site has undergone final stabilization.

Sec. 15-6-7  Erosion and Sediment Control Plan, Statement and Amendments; Permitting Requirements.

(a) Permit Required. No person shall commence a land disturbing construction activity subject to this Chapter without receiving prior approval of an erosion and sediment control plan pursuant to this Section, and a post-construction stormwater permit pursuant to Section 15-7-6 and all other necessary approvals and permits. All permit applications must be accompanied by the fee as set out in the City's fee schedule to be considered complete.
(b) **Erosion and Sediment Control Plan.** As part of the application for a permit under this Chapter, the property owner or the owner's agent shall prepare an erosion and sediment control plan that meets the performance standards of this Chapter, and addresses 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:

1. The name(s) and address(es) of the owner, owner's agent, 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.

2. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic or comparable map.

3. 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.

4. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.

5. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.

6. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.

7. Existing data describing the surface soil as well as subsoils.

8. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.

9. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic or comparable map.

10. 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 five (5) 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. Locations of all surface waters and wetlands within one (1) mile of the construction site; and
j. An alphanumeric or equivalent grid overlying the entire construction site map.

(11) A copy of any reports or data obtained through wetland delineation on the site, and if applicable, a written statement by a wetland professional or Wisconsin Department of Natural Resources staff stating that wetlands do not exist on the property.

(12) 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 reaching waters of the state. 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 Public Works Director, 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. Proper 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 stabilization practices as soon as possible after final grading.

m. Minimization of dust to the maximum extent practicable.

(13) The erosion and sediment control plan shall require that velocity dissipation devices be placed 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.

(c) **Erosion and Sediment Control Plan Statement.** As part of the application for a permit under this Chapter, an erosion and sediment control plan statement shall be prepared for each construction site that the Public Works Director has determined is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, will likely cause undue channel erosion, will likely increase water pollution by scouring or the transportation of particulate matter, and/or will likely endanger property or public safety. The statement shall briefly describe the site and include a site map depicting locations of proposed erosion and sediment control practices. Further, it shall include the best management practices that will be used to meet the requirements of this Chapter, including the site development schedule.

(d) **Erosion and Sediment Control Plan Amendments.** The applicant shall amend the erosion and sediment control 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; and
3. The Public Works Director notifies the applicant of changes needed in the plan.

(e) **Small Site Exemptions.** The Public Works Director may exempt some of the requirements of this Section for land disturbing activities under one (1) acre in area.

**Sec. 15-6-8 Inspections.**

If land disturbing construction activities are being carried out without an approved erosion and sediment control plan and all other permits and approvals required by this Chapter, the Public Works Director may enter the land pursuant to the provisions of Section 66.0119(1), (2) and (3), Wis. Stats.

**Sec. 15-6-9 Enforcement.**

(a) **Stop Work Orders.** The Public Works Director 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) **Permit Revocation.** 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 Public Works Director may revoke the permit.

(c) **Cease and Desist Order.** If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Public Works Director, or if a responsible party violates a stop-work order posted under Subsection (a), the Public Works Director may request the City Attorney to obtain a cease and desist order in any court with jurisdiction.

(d) **Retracting Stop Work Orders.** The Public Works Director or Board of Appeals may retract the stop-work order issued under Subsection (a) or the permit revocation under Subsection (b).

(e) **Municipal Notice of Intent to Perform Work.** After posting a stop-work order under Subsection (a), the Public Works Director may issue a notice of intent to the responsible party of the Public Works Director's intent to perform work necessary to comply with this Chapter. The Public Works Director 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 City of Washburn, plus interest at the rate of one percent (1%) per month for each month or part thereof, shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the City Clerk 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) **Penalty.** Any person, firm, association, or corporation violating any of the provisions of this Chapter shall be subject to a forfeiture of not less than Fifty Dollars ($50.00) 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) **Injunctions.** 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. 15-6-10 Appeals.**

(a) **Appellate Body.** The Board of Appeals, created pursuant to Sec. 62.23(e), Wis. Stats., and the City of Washburn 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 Public Works Director in administering this Chapter, except for cease and desist orders under Sec. 15-6-9(c);

2. Upon appeal, the Board of Appeals 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 Board of Appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Washburn affected by any decision of the Public Works Director.

(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. 15-6-11 Limitations on City Responsibility.**

Nothing in this Chapter creates or imposes, nor shall be construed to create or impose, any greater obligation or responsibility on the City of Washburn which has adopted this Chapter than those minimum requirements specifically required by the Wisconsin Statutes and Wisconsin Department of Natural Resources regulations.
Sec. 15-7-1 Authority.

(a) **Statutory Authority.** This Chapter is adopted by the Common Council under the authority granted by Sec. 62.234, Wis. Stats. This Chapter supersedes all provisions of ordinance(s) previously enacted under Sec. 62.23, Wis. Stats., that relate to stormwater management regulations. Except as otherwise specified in Sec. 62.234, Wis. Stats., Sec. 62.23, 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 City of Washburn.

(c) **Administration.** The Common Council hereby designates the Public Works Director to administer and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Public Works Director may be delegated by the Public Works Director to persons or entities acting in the beneficial interest of or in the employ of the City.

(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:
Sec. 15-7-2  Findings of Fact.

The Common Council of the City of Washburn 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) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

(g) Increase the public's cost to maintain and repair infrastructure due to overtaxing of the storm sewer system.

Sec. 15-7-3  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 City of Washburn Common Council 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 City of Washburn Common Council 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 City of Washburn, it is the intent of this Chapter that the approved plan be used to identify post-construction management measures acceptable for the community.

### Sec. 15-7-4 Applicability and Jurisdiction.

(a) **Chapter Applicability.** When otherwise not limited by law, this Chapter applies to a site of land disturbing construction activity meeting any of the criteria of this Section, unless the site is otherwise exempt under Subsection (b) hereunder:

1. A post-construction development site that had ten thousand (10,000) square feet to one (1) acre of land disturbing construction activity; or

2. A post-construction development site that had any land disturbing construction activity that, cumulatively together with any other land disturbing construction activity on the same parcel within the past five (5) years, disturbs ten thousand (10,000) square feet or more; or

3. Any post-construction site of any size that, in the opinion of the Public Works Director, 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) **When This Chapter Does Not Apply.** This Chapter does not apply to the following:

1. A redevelopment post-construction site with no net increase in exposed parking lots, roads, or other impervious areas.

2. 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 twenty thousand (20,000) square feet.

3. Nonpoint discharges from agricultural facilities and practices.
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(4) Nonpoint discharges from silviculture activities.
(5) 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.
(6) 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.
(7) 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. 15-7-5 Definitions.

The following definitions shall be applicable in this Chapter:
(a) Definitions Established. The following definitions shall be applicable in this Chapter:
(1) 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.
(2) Average Annual Rainfall. A calendar year of precipitation, excluding snow, in a liquid state which is considered typical.
(3) 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.
(4) Business Day. A day the Office of Public Works Director is routinely and customarily open for business.
(5) Cease and Desist Order. A court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
(6) Combined Sewer System. A system for conveying both sanitary and stormwater runoff.
(7) Connected Imperviousness. An impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
(8) Design Storm. A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
(9) Development. Residential, commercial, industrial, institutional, or other land uses and associated roads.
(10) **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.

(11) **Erosion.** The process by which the land's surface is worn away by the action of wind, water, ice or gravity.

(12) **Exceptional Resource Waters.** Waters listed in NR 102.11, Wis. Adm. Code.

(13) **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.

(14) **Financial Guarantee.** A performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Public Works Director by the responsible party to assure that requirements of the Chapter are carried out in compliance with the stormwater management plan.

(15) **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.

(16) **In-Fill Area.** An undeveloped area of land located within existing development.

(17) **Infiltration.** The entry of precipitation or runoff into or through the soil.

(18) **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.

(19) **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.

(20) **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.

(21) **Maintenance Agreement.** A legal document that provides for long-term maintenance of stormwater management and best management practices.

(22) **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.

(23) **New Development.** Development resulting from the conversion of previously undeveloped land or agricultural land uses.

(24) **Off-Site.** Located outside the property boundary described in the permit application.

(25) **On-Site.** Located within the property boundary described in the permit application.

(26) **Ordinary High-Water Mark.** Has the meaning given in NR 115.03(6), Wis. Adm. Code.

(27) **Outstanding Resource Waters.** Waters listed in NR 102.10, Wis. Adm. Code.

(28) **Percent Fines.** The percentage of a given sample of soil, which passes through a #200 sieve.

[Note to users: Percent fines can be determined using the *American Society for Testing and Materials, Volume 04.02, Test Method C117-95 Standard Test Method for Materials Finer Than 75-mm (No. 200) Sieve in Material Aggregates by Washing,* Copies can be obtained by contacting the American Society for Testing and Materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, or phone 610-832-9585, or online at http://www.astm.org.]

(29) **Performance Standard.** A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(30) **Permit.** Written authorization made by the Public Works Director to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

(31) **Permit Administration Fee.** A sum of money paid to the City of Washburn by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

(32) **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.

(33) **Pollutant.** Has the meaning given in Sec. 283.01(13), Wis. Stats.

(34) **Pollution.** Has the meaning given in Sec. 281.01(10), Wis. Stats.

(35) **Post-Construction Site.** A construction site following the completion of land disturbing construction activity and final site stabilization.

(36) **Pre-Development Condition.** 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.

(37) **Preventive Action Limit.** Has the meaning given in NR 140.05(17), Wis. Adm. Code.

(38) **Redevelopment.** Areas where development is replacing older development.

(39) **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 BMPs.
Runoff. Stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

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.

Site. The entire area included in the legal description of the land on which the land disturbing construction activity occurred.

Stop Work Order. An order issued by the Public Works Director which requires that all construction activity on the site be stopped.

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.

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.

Technical Standard. A document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

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.


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.

Waters of the State. Has the meaning given in Sec. 281.01(18), Wis. Stats.

Sec. 15-7-6 Technical Standards and Design Methods.

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:
(a) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under Subchapter V of Ch. NR 151, Wis. Adm. Code.
(b) 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 City of Washburn.
(c) In this Chapter, the average annual rainfall is based on figures for the National Weather Service Office in Duluth, MN. As of the end of 2016, that figure was thirty-one (31) inches.

Sec. 15-7-7 Performance Standards.

(a) Responsible Party. The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this Chapter.
(b) Plan. As part of the application for permit required under Section 15-7-9, a written stormwater management plan shall follow the requirements set forth in Section 15-7-10 and shall be developed and implemented for each post-construction site.

Sec. 15-7-8 Plan Requirements.

The plan required under Section 15-7-10 shall include the following:

(a) 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:
   (1) 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.
   (2) For redevelopment, by design, reduce to the maximum extent practicable the total suspended solids load by forty percent (40%), based on the 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.
   (3) 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.
   (4) Notwithstanding Subsections (a)(1)-(3) 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.

(b) **Peak Discharge.**
(1) 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 conditionally the two (2) year, twenty-four (24) hour design storm applicable to the post-construction site. Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning 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 (on file with the Public Works Director).

(2) This Subsection of this Chapter does not apply to any of the following:
   a. 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.
   b. A redevelopment post-construction site.
   c. An in-fill development area less than five (5) acres.

(c) **Infiltration.** BMP's shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable below:
(1) For residential developments, one of the following shall be met:
   a. 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.
   b. Infiltrate ten percent (10%) 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.

(2) For non-residential developments, including commercial, industrial and institutional development, one of the following shall be met:
   a. 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.
b. 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.

(3) Pre-development condition shall be the same as in Subsection (c)(2).

(4) 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)(8). Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

(5) Runoff from the following areas are prohibited from meeting the infiltration requirements of this Subsection (c):

a. Areas associated with Tier 1 industrial facilities identified in NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.

b. Storage and loading areas of Tier 2 industrial facilities identified in NR 216(2)(b), Wis. Adm. Code.

c. Fueling and vehicle maintenance areas.

d. Areas within one thousand (1,000) feet upgradient or within one hundred (100) feet downgradient of karst features.

e. 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)(5)e does not prohibit infiltration of roof runoff.

f. 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.

g. 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.

h. 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.

i. 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)(5)j does not prohibit infiltration of roof runoff.

(6) Infiltration of runoff from the following areas are not required to meet the infiltration requirements of this Subsection (c):
   a. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
   b. Parking areas and access roads less than five thousand (5,000) square feet for commercial and industrial development.
   c. Redevelopment and routine maintenance areas.
   d. In-fill areas less than five (5) acres.
   e. Infiltration areas during periods when the soil on the site is frozen.
   f. Roads in commercial, industrial and institutional land uses, and arterial residential roads.

(7) 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.

(8) 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 this Subsection, the discharge from BMP's shall remain below the enforcement standard at the point of standards application.

(d) **Protective Areas.**

(1) "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:
   a. 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.
   b. 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.
c. For lakes: Fifty (50) feet.
d. 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.
e. 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.
f. In Subsections (d)(1)a,d and e, 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.
g. For concentrated flow channels with drainage areas greater than one hundred thirty (130) acres: Ten (10) feet.

(2) This Subsection (d) applies to post-construction sites located within a protective area, except those areas exempted pursuant to Subsection (d)(4) below.

(3) The following requirements shall be met:
   a. 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.
   b. 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.
   c. 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.

(4) The following areas are not required to meet the protective area requirements of this Subsection:
a. Redevelopment post-construction sites.

b. In-fill development areas less than five (5) acres.

c. Structures that cross or access surface waters such as boat landings, bridges and culverts.

d. Structures constructed in accordance with Section 59.692(1v), Wis. Stats.

e. 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.

(f) **Fueling and Vehicle Maintenance Areas.** 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.

(g) **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 Chapter.

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.

(h) **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 otherwise in this Chapter, 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, provided all the following conditions are met:
   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.
   c. Runoff from existing development, re-development, and infill areas shall meet the post-construction performance standards in accordance with this Chapter.
d. To the maximum extent practical, best management practices shall be located to treat runoff prior to discharge to navigable water surfaces.

e. Post-construction best management practices may be located in navigable surface water if allowable under all applicable federal, state, and local regulations, such as NR 103, Wis. Adm. Code, and Ch. 30, Wis. Stats.

f. The discharge of runoff from a best management practice, such as a wet detention pond, or after a series of such best management practices, is subject to this Chapter.

(h) Approval of Off-Site Management Measures. The Public Works Director may approve off-site management measures provided that all of the following conditions are met:

a. The Public Works Director determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the City of Washburn 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, as required by this Chapter.

(i) Regional Treatment Option. Where a regional treatment option exists such that the Public Works Director exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee as established in the City's fee schedule. The fee for post-construction runoff shall be determined through establishing an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(j) Alternate Requirements. The Public Works Director may establish stormwater management requirements more stringent than those set forth in this Section if the Public Works Director determines that an added level of protection is needed to protect sensitive resources.

Sec. 15-7-9 Permitting Requirements, Procedures and Fees.

(a) Permit Required. No responsible party shall commence a land disturbing construction activity without receiving approval of a post-construction stormwater management plan pursuant to this Chapter and all other necessary approvals and permits.

(b) 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 Public Works Director may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Public Works Director to suspend or revoke this permit may be appealed in accordance with Section 15-7-14:

(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 Public Works Director at least ten (10) 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 Public Works Director 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 Public Works Director or designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The Public Works Director 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 Public Works Director of any significant modifications it intends to make to an approved stormwater management plan. The Public Works Director 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 City of Washburn, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(7) The responsible party authorizes the Public Works Director 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 15-7-12.

(8) If so directed by the Public Works Director, 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 Public Works Director 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 Public Works Director 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 15-7-13, if the responsible party fails to comply with the terms of this permit.

(c) Permit Conditions. Permits issued under this Subsection may include conditions established by the Public Works Director in addition to the requirements needed to meet the performance standards in Section 15-7-7 or a financial guarantee as provided for in Section 15-7-12.

(d) Permit Duration. Permits issued under this Section shall be valid from the date of issuance through the date the Public Works Director notifies the responsible party that all stormwater management practices have passed the final inspection required under Subsection (a)(4).

Sec. 15-7-10 Stormwater Management Plan.

(a) Plan Requirements. The stormwater management plan required under Section 15-7-9 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 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 of this Chapter.

(6) **Maintenance Plan.** A maintenance plan developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule.

(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 Public Works Director 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 Public Works Director may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards pursuant to this Chapter. In addition, the Public Works Director may exempt some of the requirements of this Section for land disturbing activities under one (1) acre in area.

**Sec. 15-7-11 Maintenance Agreement.**

(a) **Maintenance Agreement Required.** The maintenance agreement required under Section 15-7-8(b) for stormwater management practices shall be an agreement between the City of Washburn 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 this Chapter:

(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 15-7-10.
(3) Identification of the responsible property owner(s), responsible party or City of Washburn for long-term maintenance of the stormwater management practices identified in the stormwater management plan required under Section 15-7-10.

(4) Requirement that the property owner(s), responsible party or City of Washburn shall maintain stormwater management practices in accordance with the required schedule per Subsection (b)(2) above.

(5) Authorization for the Public Works Director 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 Public Works Director 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 City of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable timeframe as set by the Public Works Director.

(8) Authorization for the Public Works Director 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 City of Washburn 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. 15-7-12 Financial Guarantee.**

(a) **Establishment of the Guarantee.** The Public Works Director may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Public Works Director and/or City Attorney. The financial guarantee shall be in an amount determined by the Public Works Director 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 Public Works Director or City of Washburn 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 Public Works Director shall release the portion of the financial guarantee established under this Section, less any costs incurred by the City of Washburn to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Public Works Director may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(2) The Public Works Director shall release the portion of the financial guarantee established under this Section to assure maintenance of stormwater practices, less any costs incurred by the City of Washburn, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

Sec. 15-7-13 Inspections and Enforcement.

(a) 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.

(b) Non-Compliance Notification. The Public Works Director shall notify the responsible party by certified 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.

(c) Corrective Work Upon Notification. Upon receipt of written notification from the Public Works Director 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 Public Works Director in the notice.

(d) Intervention by Public Works Director. 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 Public Works Director may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Public Works Director plus interest and legal costs shall be billed to the responsible party.

(e) Stop Work Orders. The Public Works Director 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 City Attorney to obtain a cease and desist order in any court with jurisdiction.

(f) Permit Revocation. The Public Works Director may revoke a permit issued under this Chapter for non-compliance with ordinance provisions.

(g) Validity of Revocation Actions. Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Public Works Director or by a court with jurisdiction.
(h) **Legal Proceedings.** The Public Works Director 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 City Attorney for the commencement of further legal proceedings in any court with jurisdiction.

(i) **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.

(j) **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 injunctural proceedings.

(k) **Violations Inspections.** When the Public Works Director 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 Public Works Director or a party designated by the Public Works Director 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 Public Works Director 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 15-7-12. 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. 15-7-14 Appeals.**

(a) **Appeals to the Board of Appeals.** The Board of Appeals, created pursuant to Sec. 62.23(e), Wis. Stats., and the City of Washburn 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 Public Works Director in administering this Chapter, except for a cease and desist order or injunction issued by a court.

2. The Board of Appeals shall use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals and authorizing variances.

3. Upon appeal, the Board of Appeals 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 Board of Appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Washburn affected by any decision of the Public Works Director.
Sec. 15-7-15 Limitations on City Responsibility.

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