

TITLE 15

Building Code

- Chapter 1** Building Code
- Chapter 2** Construction Site and Stormwater Runoff Management
- Chapter 3** Fair Housing
- Chapter 4** Property Maintenance Code
- Chapter 5** Historic Preservation
- Chapter 6** Grievances Regarding Access to Public Buildings,
Programs, Services and Employment

Title 15 – Chapter 1 (Amended June, 2023)

Building Code

15-1-1	Building Code Established
15-1-2	Building Permits and Inspection
15-1-3	State Uniform Dwelling Code Adopted
15-1-4	Unsafe Buildings
15-1-5	Disclaimer on Inspections
15-1-6	Garages
15-1-7	Regulation and Permit for Razing Buildings
15-1-8	Basements; Excavations
15-1-9	Discharge of Clear Waters
15-1-10	Duplex Service Connections
15-1-11	Regulations for Moving Buildings
15-1-12	Fire District Regulations
15-1-13	Construction Sites; Maintaining Clean Streets
15-1-14	Fees
15-1-15	Severability
15-1-16	Penalties and Violations

Sec. 15-1-1 Building Code Established.

- (a) **Title.** This Chapter shall be known as the "Building Code of the City of Westby" 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 Westby. 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 Westby, 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 Westby 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 Westby 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. 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 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 re-roofing meeting the standards of Subsection (g)(2) and finishing of interior surfaces, installation of cabinetry, and minor repair as deemed by the Building Inspector. However, unless structural calculations are provided, no more than two (2) layers of roofing shall be installed on a roof. [See Subsection (g)(2)].
 - f. Any electrical wiring for new construction or remodeling, excluding new wiring for existing industrial and manufacturing facilities that do not require State mandated building plan review.
 - g. Any HVAC for new construction or remodeling.
 - h. Any plumbing for new construction or remodeling.
 - i. 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 exit stairways, or exits, fire protection, or exterior aesthetic appearance and which do not increase a given occupancy or use, shall be deemed minor repairs.
 - c. **Alterations When Not Permitted.** When any existing building or structure, which, for any reason whatsoever, does not conform to the regulations of this Chapter, has deteriorated from any cause whatsoever to an extent greater than fifty percent

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

- d. ***Alterations and Repairs Required.*** When any of the structural members of any building or structure have deteriorated from any cause whatsoever to less than their required strength, the owner of such a building or structure shall cause such structural members to be restored to their required strength; failing in which the building or structure shall be considered a menace to public safety and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the regulations of this Chapter are complied with.
- e. ***Extent of Deterioration.*** The amount and extent of deterioration of any existing building or structure shall be determined by the Building Inspector.
- (b) **Application.** Application for a building permit shall be made in writing upon a form furnished by the Building Inspector 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 City officials 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.
 - (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.
- (e) **Elevations.** The first floor minimum elevation of a house shall be eighteen (18) inches above the curb line 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., LP.).
- h. Water courses, existing drainage ditches, easements and drainage patterns.
- i. Seal 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) **Foundation Elevation and Location Confirmation.** The City may issue a building permit as a result of the above submittals, subject, however, to verification by the owner of the actual elevations, location and setbacks of the foundation once installed.

(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.

- (2) **Minor Repairs and Roofing.** The Building Inspector may authorize minor repairs or maintenance work without a building permit on certain projects. The following projects do not require a building permit:

- a. Minor repairs and alterations as determined by the Building Inspector, which do not change occupancy, area, structural strength, fire protection, exits, natural light or ventilation.
- b. Repair or replacement of an external roof surface, 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.

(h) **Site Plan Approval.**

- (1) **Site Plan Approval.** All applications for building permits for any construction, reconstruction, expansion or conversion, except for one (1) and (2) family residences in residentially zoned districts shall require site plan approval by the Planning Commission in accordance with the requirements of this Subsection. The applicant shall submit a site plan and sufficient plans and specifications of proposed buildings, machinery and

whether the proposed application meets all the requirements applicable thereto in this Chapter.

- (2) **Administration.** The Building Inspector shall make a preliminary review of applications and plans under this Subsection and refer them along with a report of his/her findings to the Plan Commission. The Plan Commission shall review the application and may refer the application and plans to one (1) or more expert consultants selected by the Planning Commission to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within thirty (30) days of its receipt of the application, the Planning Commission shall authorize the Building Inspector to issue or refuse a building permit.
 - (3) **Requirements.** In acting on any site plan approval application, the Planning Commission shall consider the following:
 - a. The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - b. The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading; and shall, in this connection, be satisfied that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
 - c. The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
 - d. The landscaping, lighting and appearance of the completed site. The Planning Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants and/or grass lawn/medians, and that the site be effectively screened so as not to impair the value of adjacent properties nor the intent or purposes of this Chapter.
 - (4) **Effect on Municipal Services.** Before granting any site approval, the Planning Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Building Inspector or other municipal officials/consultants, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Planning Commission shall not issue its final approval until the City has entered into an agreement with the applicant regarding the development of such facilities.
 - (5) **Appeals.** Denials of building permits contingent upon site plan approval may be appealed to the Board of Appeals by filing a notice of appeal with the City Clerk-Treasurer within ten (10) days of the denial.
- (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) ***Building Permit Issuance.***
 - a. The Building Inspector shall issue the requested building permit for UDC projects if the owner or contractor demonstrates that all state and local submission requirements are satisfied, and upon payment of appropriate fees. If a permit card is issued, it shall be posted at the job site in a visible location from the street.
 - b. Upon completion of the foundation, the owner shall verify foundation setbacks and elevations.
 - (2) ***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.
 - (3) ***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.
- (k) **Inspections.**
 - (1) ***Inspection Requirements.*** Inspections for UDC projects shall be in accordance with SPS 320.10
 - (2) ***Inspection Requests.*** The applicant or authorized representative shall request inspections from the municipality or authorized UDC inspections agency administering and enforcing the code.
- (l) **Permit Lapses.** A building permit, other than Wisconsin Uniform Building Permit, shall lapse and be void unless building operations are commenced within six (6) months and if construction has not been completed within twelve (12) months from the date of issuance thereof. Wisconsin Uniform Building Permits shall expire 24 months after issuance if the dwelling exterior has not been completed in accordance with Wis. Admin. Code SPS 320.09(9)(a)5.
- (m) **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, except that Wisconsin Uniform Dwelling Code (UDC) permits may only be revoked in accordance with SPS 320.10(4)(b)2 and SPS 320.11.
 - 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 or construction 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.

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

- (a) **Adoption of Wisconsin Statutes and Administrative Code.**
 - (1) The following Chapters of the Wisconsin Administrative Code and Wisconsin Statutes, as well as all subsequent revisions, are hereby adopted and incorporated into this Code and shall be enforced by the Building Inspector:
 - Ch. SPS 302.31 Plan Review Fee Schedule
 - Ch. SPS 305 Credentials
 - Ch. SPS 314 Fire Protection
 - Ch. SPS 316 Electrical Code
 - Ch. SPS 318 Elevators, Escalators, and Lift Devices
 - Ch. SPS 320-325 Uniform Dwelling Code
 - Ch. SPS 327 Campgrounds
 - Ch. SPS 360-366 Commercial Building Code
 - Ch. SPS 375-379 Buildings Constructed Prior to 1914
 - Ch. SPS 381-387 Uniform Plumbing Code

Wis. Stat. Statues Chapter 101 Department of Safety and Professional Services –
Regulation of Industry, Buildings, and Safety.

- (2) **Certified Municipality.** The City has adopted the Certified Municipality Status as described in Ch. SPS 361.60 of the Wisconsin Administrative Code.
- a. **Responsibilities.** The City shall assume the following responsibilities for the Department of Safety and Professional Services Department:
1. Provide inspection of commercial buildings with certified commercial building inspectors; and
 2. Provide plan examination of commercial buildings with certified commercial building inspectors.
 - a. A certified municipality may waive its jurisdiction for the plan review of a specific project or types of projects, or components thereof, in which case plans and specifications shall be submitted to the Department for review and approval.
 - b. The Department may waive its jurisdiction for the plan review of a specific project, where agreed to by a certified municipality, in which case plans and specifications shall be submitted to the certified municipality for review and approval.
- b. **Plan Examination.** Drawings, specifications, and calculations for all the types of buildings and structures, regardless of size, except State-owned buildings and structures, to be constructed within the limits of the City of Westby, shall be submitted:
1. A certified municipality may waive its jurisdiction for the plan review of a specific project or types of projects, or components thereof, in which case plans and specifications shall be submitted to the Department for review and approval.
 2. The Department may waive its jurisdiction for the plan review of a specific project, where agreed to by a certified municipality, in which case plans and specifications shall be submitted to the certified municipality for review and approval.
- c. **Plan Submission Procedures.** All commercial buildings, structures, and alterations, including new buildings and additions less than 25,000 cubic feet, require plan submission as follows:
1. Building permit application
 2. Application for review – SBD-118
 - a. Fees per Table SPS 302.31-2 and SPS 302.31
 - b. Fees apply to all commercial projects
 3. Four sets of plans
 - a. Signed and sealed per SPF 361.31
 - b. One set of specifications
 - c. Component and system plans
 - d. Calculations showing code compliance
- (3) **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 Westby. 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 (1) and two (2) family dwellings built prior to June 1, 1980, all one (1) and two (2) family dwellings, and all one (1) and two (2) family residential remodeling and additions.
 - (2) **Detached Garages.** Detached garages greater than two hundred (200) square feet serving one (1) and two (2) 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). Amended: July 21, 2020 3 7 .01(B)(2) 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 Westby. 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
SPS	327	Camping Units

(e) **Method of Enforcement.**

- (1) **Certified Inspector to Enforce.** The Building Inspector and his/her delegated representatives are hereby authorized and directed to administer and enforce all of the provisions of the Uniform Dwelling Code. The Building Inspector shall be certified for inspection purposes by the Wisconsin Department of Safety and Professional Services in each of the categories specified under SPS 326.06, 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 aggregate cost of all one (1) and two (2) family dwellings shall be kept.

Sec. 15-1-4 Unsafe Buildings.

Whenever the Building Inspector, Common Council and/or their designees find any building or part thereof within the City of Westby 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. 15-1-5 Disclaimer on Inspections.

The purpose of the inspections under this Chapter is to improve the quality of housing in the City of Westby. 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. 15-1-6 Garages.

(a) **Definitions.** As used in this Chapter:

- (1) **Attached Private Garage.** A private garage attached directly to the principal building, or attached by means of an enclosed or open breezeway, porch, terrace, or a private garage so constructed as to form an integral part of the principal building.
- (2) **Detached Private Garage.** A private garage entirely separated from the principal building.

Sec. 15-1-7 Regulation and Permit for Razing Buildings.

(a) **Demolition Permit Required.** All persons who demolish or cause to be demolished any structure or part of a structure larger than four hundred (400) square feet within the City of Westby shall apply for and obtain a demolition permit from the building inspection prior to undertaking any steps to demolish the structure.

(b) **Application.** An application for a permit to demolish all or part of a building shall include the following information:

- (1) The name and address of the owner of the building on date of application and, if different, on date of demolition;
- (2) The name, address and telephone number of the contractor(s) performing the demolition work;
- (3) The date upon which demolition is to commence;
- (4) The date by which demolition shall be complete;
- (5) A list of all hazardous waste and hazardous and toxic substances (as defined by NR 181.12 and 158.03(4), Wis. Adm. Code as amended from time to time) contained in the building, a statement as to whether the building contains asbestos [as defined by Sec. 140.04(1)(a), Wis. Stats.], and a detailed description of the method to be used in removing, transporting and disposing of any hazardous waste, hazardous and toxic substances, and asbestos;
- (6) A detailed description of how and where the waste materials resulting from the demolition will be transported and disposed of (including the description of the route to be used by trucks in hauling the waste);
- (7) A description of the method of demolition to be used; and
- (8) A description in detail of all methods to be used to prevent water runoff and soil erosion from the site to neighboring properties and to prevent releasing unreasonable amounts of dust from the site;
- (9) Along with the application for permit for demolition, the applicant shall present a release from all utilities serving the property, stating that their respective service connections and

appurtenant equipment such as meters and regulators have been removed or sealed and plugged in a safe manner.

- (c) **Demolition.** The demolition shall be conducted in a manner that is safe and that does not adversely affect the environment.
- (d) **Clearing and Leveling the Site.**
 - (1) The site of any demolition shall be properly cleared of debris, rubbish and pavement and shall be properly graded and leveled to conform with the adjoining grade of the neighboring property; and when so graded and leveled, the site shall be seeded, sodded or treated in some other manner acceptable to the Building Inspector so as to prevent blowing dust, dirt, or sand. Excavations remaining after demolition shall be filled, graded and leveled off, not later than thirty (30) consecutive days after demolition is completed.
 - (2) Excavations from demolished buildings or structures shall not be filled with any materials subject to deterioration. The Building Inspector, upon notification by the permit holder, the owner or his/her agent, in writing and upon forms provided by the Building Inspector for that purpose, shall within seventy-two (72) hours inspect each excavation, or part thereof, before filling any excavation.
 - (3) It shall be unlawful to fill any such excavation without inspection and approval of the Building Inspector. Voids in filled excavations shall not be permitted. In the event of the unavailability of the Building Inspector to conduct an inspection within the seventy-two (72) hours after written notice; the permit holder, owner or his/her agent may retain the services of a certified, qualified municipal inspection service to obtain an opinion that approves filling of the excavation. Said opinion shall be deemed a sufficient approval by the City provided that a written copy of the opinion is delivered to the City Clerk-Treasurer at least forty-eight (48) hours before filling of the excavation commences.
- (e) **Removal and Disposal.** Removal, transportation and disposal of all hazardous waste, hazardous and toxic substances, and asbestos shall be conducted in compliance with all applicable state, federal and local statutes, ordinances and regulations. The permit holder shall give the Building Inspector seventy-two (72) hours written notice prior to any removal, transportation or disposal of hazardous waste, hazardous and toxic substances, and asbestos.
- (f) **Miscellaneous Provisions.**
 - (1) A snow fence or other approved barricade shall be provided as soon as any portion of the building is removed and shall remain during razing operations.
 - (2) Razing permits shall lapse and be void unless the work authorized thereby is commenced within six (6) months from the date thereof or completed within thirty (30) days from the date of commencement of said work. Any unfinished portion of work remaining beyond the required thirty (30) days must have special approval from the Building Inspector.
 - (3) All debris must be hauled away at the end of each week for the work that was done on that week. No combustible material shall be used for backfill, but shall be hauled away. There shall not be any burning of materials on the site of the razed building.
 - (4) If any razing or removal operation under this Section results in, or would likely result in, an excessive amount of dust particles in the air creating a nuisance in the vicinity thereof, the permittee shall take all necessary steps, by use of water spraying or other appropriate means, to eliminate such nuisance.
 - (5) The permittee shall take all necessary steps, prior to the razing of a building, through the employment of a qualified person in the field of pest control or by other appropriate means, to treat the building as to prevent the spread and migration of rodents and insects therefrom during and after the razing operations.

Sec. 15-1-8 Basements; Excavations.

- (a) **Basement Subflooring.** First floor subflooring shall be completed within sixty (60) days after the basement is excavated.
- (b) **Fencing of Excavations.** The owner of any premises on which there exists an opening or excavation (including for sewer and water lateral excavations) which is located in close proximity to a public sidewalk or street right-of-way as to constitute a hazard to pedestrian or vehicular traffic shall erect a fence, wall or railing at least four (4) feet high between such opening or excavation and the public right-of-way before workers leave the job site.
- (c) **Closing of Abandoned Excavations.** Any excavation for building purposes or any uncovered foundation which shall remain open for more than 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 Sec. 66.0627, Wis. Stats.
- (d) **Fill Dirt.** Fill dirt used at a site shall be graded within four (4) weeks.

Sec. 15-1-9 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, rain 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) **Sump Pump Discharge.**

(1) All sump pumps installed for the purpose of discharging clear water from foundation drains, basement drains and ground infiltration shall within sixty (60) days of installation discharge into a storm sewer wherever available. Storm sewers shall be considered "available":

- a. In existing streets with storm sewers when storm sewer laterals are installed.
- b. In non-existing streets and in existing streets without storm sewers when storm sewers are installed.

(2) Storm sewers shall not be considered "available" in existing streets with storm sewers until such time as sewer laterals are installed. If no storm sewer is available sump pumps shall discharge into an underground conduit leading to a drainage ditch, gutter, drywell or onto the ground at a point which is not less than three (3) feet from the building and is above permanent grade.

(3) No sump discharge shall be allowed to flow on or across a public sidewalk. Sump discharge shall be directed to flow to the backyard in all cases commencing November 15 and continuing until April 15 each year.

(4) The provisions contained herein shall be in addition to those required and imposed by the State Plumbing Code, Chapters H81, H82 and H83, Wis. Adm. Code, and Chapter 145, Wis. Stats., and shall not amend or alter the provisions therein except insofar as is necessary for the application and enforcement of this Subsection.

(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. 15-1-10 Duplex and Multi-Service Connections.

- (a) A duplex structure shall be allowed a common water service to the curb stop, but each unit of said duplex shall have a separate outside curb stop for the purpose of shutting water off in one (1) unit without disturbing the second unit.
- (b) Structures over two (2) units, if metered separately, shall also have individual outside curb stops for the purpose of shutting water off in one (1) unit without disturbing other units.
- (c) A common sewer service can be used for duplex and multiple unit structure from the sewer main to the structure.

Sec. 15-1-11 Regulations for Moving Buildings.

(a) **General Requirements.**

(1) No person shall move any building or structure greater than two hundred (200) square feet upon any of the public ways of the City of Westby 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-Treasurer prior to issuance of the moving permit.
 - (3) Issuance of moving permit shall further be conditioned on approval of the moving route by the Common Council.
- (b) **Moving Damaged Buildings.** No building shall be repaired, altered or moved within or into the City that has deteriorated or has been damaged by any cause (including such moving and separation from its foundation and service connections in case of moved buildings) fifty percent (50%) or more of its equalized value and no permit shall be granted to repair, alter or move such building within or into the City. Furthermore, if the equalized assessed value of the building is not within twenty percent (20%) of the surrounding buildings where the building is proposed to be moved to, no permit shall be granted unless the building is improved to be within the twenty percent (20%). Such determination shall be made by the Building Inspector, who may seek a recommendation from the City Assessor.
 - (c) **Continuous Movement.** The movement of buildings shall be a continuous operation during all the hours of the day and at night, until such movement is fully completed. All such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lights shall be kept in conspicuous places at each end of the building during the night.
 - (d) **Street Repair.** Every person receiving a permit to move a building shall, within one (1) day after said building reaches its destination, report that fact to the 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.
 - (e) **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.
 - (f) **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 Westby in a sum to be fixed by the Building Inspector and which shall not be less than Fifty Thousand Dollars (\$50,000.00), 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 (f)(1) shall be further conditioned upon the permittee erecting adequate barriers and within forty-eight (48) hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the Building Inspector and reasonably adopted or calculated to prevent the occurrences set forth herein.

- (g) **Insurance.** The Building Inspector shall require, in addition to the said bond above indicated, public liability insurance covering injury to one (1) person in the sum of not less than Five Hundred Thousand Dollars (\$500,000.00) and for one (1) accident, aggregate not less than One Million Dollars (\$1,000,000.00), together with property damage insurance in a sum not less than Five Hundred Thousand Dollars (\$500,000.00), or such other coverage as deemed necessary.

- (h) **Common Council Approval.**

- (1) No such permit shall be issued unless it has been found as a fact by the Common Council by at least a majority vote, after an examination of the application for the permit which shall include exterior elevations of the building and accurate photographs of all sides and views of the same and in case it is proposed to alter the exterior of said building, plans and specifications of such proposed alterations and after a view of the building proposed to be moved and of the site at which it is to be located, that the exterior architectural appeal and functional plans of the building to be moved, or moved and altered, will not be so at variance with either the exterior architectural appeal and functional plan of the buildings already constructed or in the course of construction in the immediate neighborhood or in the character of the applicable district established by the zoning ordinances of the City or any ordinance amendatory thereof or supplementary thereto, as to cause a substantial depreciation of the property values of said neighborhood within said applicable district. In case the applicant proposed to alter the exterior of said building after moving the same, he/she shall submit, with his/her application papers, complete plans and specifications for the proposed alterations. Before a permit shall be issued for a building to be moved and altered, the applicant shall give a cash bond to the Common Council, which shall not be less than Fifty Thousand Dollars (\$50,000.00) to be executed in the manner provided in subsection hereof to the effect that he/she will, within a time to be set by the Common Council, complete the proposed exterior alterations to said building in the manner set forth in his/her plans and specifications. This bond shall be in addition to any other bond or surety which may be required by other applicable ordinances of the City. No occupancy permit shall be issued for said building until the exterior alterations proposed to be made have been completed.

- (2) Upon application being made to the Building Inspector, he/she shall request a meeting of the Common Council to consider application for moving permits which he/she has found comply, in all respects, with all other ordinances of the City. The Common Council may, if it desires, hear the applicant for the moving permit in question and/or the owner of the

lot on which it is proposed to locate the building in question, together with any other persons, either residents or property owners, desiring to be heard, give such notice of hearing as they may deem sufficient. Such hearing may be adjourned for a reasonable length of time, and within forty-eight (48) hours after the close of the hearing, the Common Council shall, in writing, make or refuse to make the finding required by Subsection (h)(1) hereof and file it in the office of City Clerk-Treasurer who shall send a copy of it to the Building Inspector.

Sec. 15-1-12 Fire District Regulations.

- (a) **Boundaries.** All that part of the City of Westby embraced in the following limits shall be known as the "Fire Limits" to-wit:
- (1) **1st Ward.** All that territory bounded by the north line of lot number seven (7) in Sarah Westby addition and in a straight line east to the center of the main tract of the Chicago, Milwaukee and St. Paul Railway, and the east boundary along the centerline of said railway tract to the south line of lot number two (2) in the south division in original plat. South by south line of lots number two (2) and one (1) in the south division in original plat to which it intersects with Main Street, on the west by Main Street.
 - (2) **2nd Ward.** The blocks bounded by the La Crosse County Road on the south, Davidson Boulevard on the west, the northerly line of the south alley in Jens Davidson main addition block "A" and block "B", thence in a straight line east to the Main Street, and on the east by Main Street.
 - (3) **3rd Ward.** The blocks bounded by Main Street on the east, Highland Street on the south, and the easterly line of lot number twenty-one (21) Bergum's addition and thence in a straight line north to when it intersects with the La Crosse County Road, and on the north by the La Crosse County Road.
- (b) **Standards.** No building shall be erected within the fire limits, unless the same shall be constructed in conformity with the following provisions:
- (1) All outside and party walls shall be made of stone, brick or other fire-proof materials.
 - (2) Outside or party walls not exceeding twenty (20) feet in height from the level of the sidewalk to the under side of the roof, joist or rafters (except stores, mills and warehouses) shall be not less than twelve (12) inches in thickness, if of brick and not less than sixteen (16) inches in thickness, if of stone; but stores, mills and warehouses exceeding twenty (20) feet in height as aforesaid shall be not less than sixteen (16) inches in thickness, if of brick, nor less than eighteen (18) inches in thickness, if of stone.
 - (3) All joints, beams and other timbers in outside and party walls shall be separated at least four (4) inches from each other with stone or brick laid in mortar, and all wooden lintel or plate pieces in front or rear walls shall recede from the outside of the walls at least four (4) inches, except that lintels of timber may be used in cornices, when covered with metal, or other fire-proof roofing, which recede four (4) inches from the outside, or front as aforesaid; all roofs, cornices and gutters shall be covered with fire-proof materials.
 - (4) There shall not be more than thirty (30) feet space between the outside, or party walls of any building, unless such buildings be supported by iron or stone or other columns of supporters of fire-proof
 - (5) The end and party walls shall extend above the sheathing of the roof at least two and one-half (2-1/2) feet and in no case shall the planking or sheathing of the roof extend through, or across any party, or end wall, and in case of an opening in any end, or party wall, the

same shall be provided with iron, or fire-proof doors, properly fitted and hung so as to be easily closed in case of fire.

- (c) **Standards to Be Complied With.** No building shall be erected within the fire limits or any other materials, or in any other manner than is prescribed by Subsection (b).
- (d) **Reconstruction.** No wooden buildings within the fire limits, which may hereafter be damaged to the amount of fifty percent (50%) of the value thereof, shall be repaired or rebuilt; nor shall such building where the damage is less than such fifty percent (50%) of its value be so repaired as to be raised higher than the highest point reached by such building prior to such damage, or so occupy a greater space than before the damage hereto.

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

City streets are to be kept clean of dirt and debris from all construction sites. The primary contractor for any construction project shall be responsible for sweeping streets of debris within twenty-four (24) hours of the incident. The City of Westby will clean said street(s) if the work is not done within twenty-four (24) hours of the incident; and charge the current established costs to the contractor for the work. Failure to pay said costs within thirty (30) days of receipt of the billing shall be deemed a violation of this Section, and be subject to the penalty provisions of Section 1-1-7.

Sec. 15-1-14 Fees.

Fees for permits under this Chapter shall be as prescribed in Section 1-3-1.

Sec. 15-1-15 Severability.

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

Sec. 15-1-16 Penalties and Violations.

- (a) **Violations.** Any building or structure in the City of Westby 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 officials constitute a defense. Compliance with the provisions of this Chapter may also be enforced by injunctive order at the suit of the owner or owners of any real estate within the jurisdiction of this Chapter.
- (b) **Compliance; Penalties.**
 - (1) **Notice of Noncompliance.** If an inspection reveals a noncompliance with this Chapter or the Uniform Dwelling Code, the Building Inspector shall notify the applicant and the owner, in writing, of the violation to be corrected. All cited violations shall be corrected within thirty (30) days after written notification unless an extension of time is granted pursuant to SPS 320.10, 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 Westby from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter or the Uniform Dwelling Code.
 - (4) **Double Permit Fees for Violations.** If any construction or work governed by the provisions of this Chapter, the Uniform Dwelling Code, or other applicable Codes adopted and incorporated in this Chapter is commenced prior to the issuance of a permit, double fees shall be charged.
- (c) **Appeals.**
- (1) **UDC Appeals.** Any person feeling aggrieved by an order or determination of the Building Inspector on a matter governed by the Wisconsin Uniform Dwelling Code may only appeal such an order to the Wisconsin Department of Safety and Professional Services or 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.
- (d) **Liability.** Except as may otherwise be provided by the Statute or Ordinance, no officer, agent or employee of the City of Westby 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.

Title 15 – Chapter 2

Construction Site Erosion and Storm Water Runoff Control

15-2-1	Authority
15-2-2	Findings and Purpose
15-2-3	Applicability of Regulations
15-2-4	Definitions
15-2-5	Design Criteria, Standards and Specifications for Erosion
15-2-6	Maintenance of Control Measures
15-2-7	Required Control of Erosion and Pollutants During Land Disturbance and Development
15-2-8	Land Disturbing Activities Subject to Storm Water
15-2-9	Permit Application, Control Plan and Permit Issuance
15-2-10	Inspection
15-2-11	Enforcement
15-5-12	Appeals; Variances

Sec. 15-2-1 Authority.

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

Sec. 15-2-2 Findings and Purpose.

- (a) **Policy Declaration.** The Common Council finds runoff from land disturbing activities carries a significant amount of sediment and other pollutants to the waters of the State and the City of Westby.
- (b) **Purpose.** It is the purpose of this Chapter to preserve the natural resources; to protect the quality and quantity of the surface and ground waters of the State and City; and to protect and promote the health, safety and welfare of the people, to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharge from land disturbing activities to lakes, streams and wetlands. The Common Council finds that land uses have significantly contributed to the process of soil erosion, runoff, and sediment deposition in waters located within or near the City. It is, therefore, declared to be the purpose of this Chapter to control and, if possible, prevent soil erosion and water runoff increases and, thereby, to preserve the natural resources, control floods, and prevent impairment of dams and reservoirs, protect the quality and quantity of public waters and wetlands, prevent property damage, preserve wildlife, protect the tax base and protect and promote the health, safety, and general welfare of the people of the City of Westby. This Chapter is in accordance and consistent with the City's Zoning Code, so far as practicable.

Sec. 15-2-3 Applicability of Regulations.

- (a) **Scope of Coverage.** This Chapter applies to land disturbing and land developing activities on land within the boundaries and jurisdiction of the City and the public and private lands subject to extraterritorial review under Ch. 236, Wis. Stats. All State funded or conducted construction is

exempt from this Chapter. This Chapter shall apply outside the City limits within the extraterritorial plat review area provided by Chapter 236, Wis. Stats., and Title 15 of the City Code of Ordinances, but only to those land disturbing activities relating to, arising from, or connected with a subdivision as defined in Sec. 236.02(12), Wis. Stats., and certified surveys as defined in this Code of Ordinances.

- (b) **Exclusions.** The following activities are generally excluded from coverage under this Chapter:
- (1) State funded or conducted activities that are subject to the State Site Erosion Control and Storm Water Runoff Plan. State funded or conducted construction activities must meet the requirements contained in the "State Plan for the Control of Construction Erosion and Storm Water Runoff", which contains similar requirements as contained in this Chapter, as a minimum.
 - (2) Agricultural land uses as defined in this Chapter and quarries, except where the Common Council, Planning Commission, City Engineer or Building Inspector determine that erosion or runoff from such agricultural or quarry use is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.
 - (3) Small land disturbing activities such as gardens, minor landscaping modifications and minor repair of sidewalks, paths or driveways, except where the Common Council, Planning Commission, City Engineer or Building Inspector determine that erosion or runoff is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.

Sec. 15-2-4 Definitions.

- (a) The following definitions shall be applicable in this Chapter:
- (1) ***Agricultural Land Use.*** Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.
 - (2) ***Building Inspector.*** The Building Inspector of the City of Westby.
 - (3) ***Commercial Land Use.*** Use of land for the retail or wholesale sale of goods or services, including office parks where non-retail business takes place.
 - (4) ***Control Measure.*** A practice or combination of practices to control erosion and attendant pollution, (also known as "Best Management Practice").
 - (5) ***Control Plan.*** A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this Chapter submitted by the applicant for review and approval by the Building Inspector and/or City Engineer.
 - (6) ***Erosion.*** The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
 - (7) ***Existing Grade.*** The vertical location of the existing ground surface prior to excavation of filling.
 - (8) ***Fill.*** Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man/woman to a new location and shall include the conditions resulting therefrom.
 - (9) ***Grading.*** Altering the elevation of the land surface by stripping, excavating, filling, stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.
 - (10) ***Land Disturbing Activity.*** Any change to the land surface which may result in soil erosion, sedimentation or increase in water runoff, including but not limited to tilling, removal of vegetative cover, stockpiling of soil, grading, excavating, livestock grazing

- and filling of land.
- (11) **Landowner.** Any person holding title to or having any interest in land.
 - (12) **Land Treatment Measurers.** Structural or vegetative practices (including fencing) used to control erosion, sediment and water runoff (also known as "Best Management Practices").
 - (13) **Land User.** Any person who uses land collectively or individually as owner, operator, lessor or renter, or who occupies land by providing work or service that requires alteration of the land, or any person who has made other arrangements with a landowner which gives them the right and/or responsibility for use of the land.
 - (14) **Major Land Disturbing Activities.** Those activities where the land disturbance covers one or more acres, where a subdivision (as defined by Chapter 236, Wis. Stats.) is created, or where the Common Council, Planning Commission, Director of Public Works, City Engineer or Building Inspector determines that special circumstances due to topography, proximity to watercourses or relation to sensitive environmental area make the disturbance a major one.
 - (15) **Minor Land Disturbing Activities.** Those activities where the land disturbance covers less than one (1) acre and the activities do not otherwise fall within the definition of major land disturbing activities.
 - (16) **Parcel.** All continuous lands under the ownership or control of a land occupier or land user.
 - (17) **Peak Flow.** The maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or flood.
 - (18) **Person.** Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government or any combination thereof.
 - (19) **Public Lands.** All lands owned or controlled by any unit of government.
 - (20) **Runoff.** Includes, but is not limited to, ice or water flowing over the ground surface.
 - (21) **Sediment.** Solid material, mineral or organic, that is in suspension, is being transported to, or has been moved from, its site of origin by air, water, gravity or ice and has come to rest or has been deposited on the earth's surface at another location.
 - (22) **Sedimentation.** The transportation and deposition of sediment that may ultimately degrade water quality by the presence of suspended solid particles, derived from soils by erosion or discharged into surface waters from other sources, or the deposition of water-borne sediments in stream channels, lakes, reservoirs, or on floodplains, usually resulting from a decrease in the velocity of the water flow.
 - (23) **Site.** The entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.
 - (24) **Soil Loss.** Soil removed from a given site by land disturbing activities or by the forces of erosion, and redeposited at another site.
 - (25) **Storm Frequency.** The average period of time during which a storm of a given duration and intensity can be expected to be equaled or exceeded.
 - (26) **Storm Sewer.** A closed conduit for conducting collected storm water.
 - (27) **Storm Water Runoff.** The waters derived from rains falling within a tributary drainage basin, flowing over the ground surface or collected in a water drainage system.
 - (28) **Structural Measures.** Land treatments or Best Management Practices intended to prevent erosion, sediment or runoff that include, but are not limited to, gully control structures, grass waterways, riprap, detention basins or ponds, sediment basins or ponds, infiltration basins or trenches, flood retention dams, diversions, and lining channels with

rock concrete or other materials. Contour strip cropping is not considered a structural measure under this Chapter.

- (29) **Water Drainage Facility.** Any element in a water drainage system which is made or improved.
- (30) **Water Drainage System.** All facilities used for conducting runoff to, through or from a drainage area to the point of final outlet including, but not limited to, any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, reservoirs, detention basins or ponds, storm sewers, streets, and pumping stations.
- (31) **Working Day.** Monday, Tuesday, Wednesday, Thursday or Friday, excluding, however, any such day officially observed by the City as a legal holiday. Also referred to as "business day".

Sec. 15-2-5 Design Criteria, Standards and Specifications for Erosion Control Measures.

All control measures required to comply with this Chapter shall be measures based on accepted design criteria, standards and specifications periodically established by the United States Soil Conservation Service, Wisconsin Department of Natural Resources or otherwise identified as acceptable by the Building Inspector or City Engineer. Where design criteria, standards or specifications conflict, the most restrictive provisions shall apply.

Sec. 15-2-6 Maintenance of Control Measures.

All sedimentation basins and other control measures necessary to meet the requirements of this Chapter shall be maintained consistent with the maintenance provisions contained in "Wisconsin Construction Site Best Management Practice Handbook" by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.

Sec. 15-2-7 Required Control of Erosion and Pollutants During Land Disturbance and Development.

- (a) **Applicability.** This Section applies to the following sites of land development or land disturbing activities:
 - (1) Those sites requiring certified survey map approval or subdivision or land division plat approval under City land division ordinances.
 - (2) Those sites involving the construction of buildings or other improvements on lots of approved certified surveys, land division plats or subdivision plats.
 - (3) Those involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of four thousand (4,000) square feet or more.
 - (4) Those involving excavation or filling or a combination of excavation and filling affecting four hundred (400) cubic yards or more of dirt, sand or other excavation or fill material.
 - (5) Those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.
 - (6) Those involving the laying, repairing, replacing, inspecting or enlarging of an underground pipe or facility for a distance of three hundred (300) feet or more.
 - (7) Those sites involving the changing, enlargement, dredging or other alteration to any watercourse, waterway and/or wetlands.

- (8) Those other situations [e.g. developments with slopes over twelve percent (12%) where the City Engineer or Building Inspector, at the request of the Planning Commission or Common Council, determine that erosion or runoff is likely to occur unless control measures are taken.

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

- (b) **Minimum Erosion Control Standards to be Met.** At a minimum, the erosion and runoff control standards listed below must be met on all sites described in Subsection (a) above. Additional or more stringent control standards may be required in those situations where the City Engineer and/or Building Inspector determines that special circumstances due to topography, proximity to watercourses or environmentally sensitive areas justify additional or more stringent controls. The permittee is responsible for obtaining compliance with the required standards. In cases where no permit has been issued, the landowner is responsible for obtaining compliance with the required standards:

Sec. 15-2-8 Land Disturbing Activities Subject to Storm Water Runoff Control.

(a) **Best Management Practices.**

- (1) ***Temporary best management practice needs for various drainage areas.*** The following temporary best management practices shall be used to control sediment where erosion of the site, including dirt piles, during construction will result in sediment reaching waters of the state, public sewers or other off site areas:
- a. Small drainage areas with overland flow [generally less than one (1) acre]. For drainage areas with overland flow [generally less than one (1) acre], a filter fabric fence or equivalent best management practice placed along the downslope areas and along the side slope areas as required or the disturbed area shall be properly mulched.
 - b. Drainage areas of two (2) acres or less with concentrated or channelized flow. For drainage areas of two (2) acres or less with concentrated or channelized flow, a filter fabric barrier or equivalent best management practice placed at the downslope point of the disturbed area or the disturbed area shall be properly mulched.
 - c. Drainage areas of five (5) acres or less with concentrated or channelized flow, a sediment trap or equivalent best management practice placed at the downslope point of the disturbed area.
 - d. Drainage areas of more than five (5) acres with concentrated or channelized flow. For drainage areas of more than five (5) acres with concentrated or channelized flow, a sediment basin or equivalent best management practice placed at the downslope point of the disturbed area. The basin shall be properly maintained and cleared out when necessary.
 - e. Steep slopes. Slopes of twelve (12) or more percent may require use of additional best management practices.
- (2) ***Sequenced Activities.*** All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time and the amount of soil leaving the site.

- (3) **Site Stabilization.** When the disturbed area is properly stabilized by established vegetation or other permanent means, the temporary best management practices may be removed.

NOTE: Permanent best management practices specified in the *Wisconsin Construction Site Best Management Practice Handbook* include sodding; seeding; grassed waterway; geotextile reinforced grassed waterway; and rock and concrete lined waterway.

- (4) **Tracking Minimization.** Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any significant sediment reaching a public or private road shall be removed by street cleaning before the end of each work day. Flushing may not be used unless the sediment will be controlled by a filter fabric barrier, sediment trap, sediment basin or equivalent.

- (5) **Drain Inlet Protection.** Downslope on-site storm drain inlets shall be protected.

- (6) **Site Dewatering.** Water pumped from the site shall be discharged to an appropriately sized filter fabric barrier, sediment tarp, sediment basin or equivalent best management practice.

NOTE: Site dewatering on some sites is covered under the Wisconsin Pollutant Discharge Elimination System Permit Program.

- (7) **Sediment Cleanup.** All off-site sediment deposits occurring as a result of a storm event shall be cleaned up by the end of the next work day following the occurrence. All other off-site sediment deposits occurring as result of construction activities shall be immediately cleaned up.

- (8) **Waste and Material Management and Disposal.** All waste and unused building materials shall be properly managed and disposed to prevent pollutants and debris from being carried by runoff off the site.

- (9) **Roof Drainage.** All roof drainage from permanent buildings shall discharge to pervious surfaces to increase infiltration and reduce increases in runoff except where demonstrated to be infeasible and a written waiver is granted by the City Engineer or Building Inspector.

- (b) **Additional Erosion Control Standards to be Met on Larger Sites.** These control standards are in addition to the minimum control standards as set forth in Subsection (a), and thus include, but are not limited to, all sites involving land divisions, subdivisions or certified survey maps (where land divisions, subdivisions or certified survey maps involve either one (1) or more acres or create five (5) or more lots or building sites), or all sites where one (1) or more acres are disturbed at a time, where special circumstance due to topography, proximity to water covers or relation to environmentally sensitive lands make the disturbance a major one, shall meet the added control plan requirements as set up by the City Engineer or Building Inspector. These requirements may include required public dedication of water runoff control measures. The permittee is responsible for obtaining compliance with the control plan requirements. Informal guidelines for the control plan for a major land disturbing activity are hereto attached and incorporated herein as a part of this Chapter as an addendum.

- (c) **Special Circumstances.** The control standards set forth in this Chapter are intended to apply on a typical development site. When land disturbing and/or development activity is proposed for a site with extraordinary features, the Planning Commission may recommend to the Common Council and the Council, at its discretion, will require additional and/or more restrictive control standards and measures before any control plan is approved or permit is issued. Extraordinary sites include, but are not limited to, sites where land disturbing or development activities are

proposed to occur on slopes of more than twelve percent (12%) grade in designated floodplain, wetland, or conservancy areas or in environmental corridor areas identified in the City Master Plan.

(d) **Land Disturbing Activities Subject to Storm Water Runoff Control.**

- (1) Land disturbing activities on public lands as defined herein, and on all private lands shall be subject to the runoff control provisions of this Section, if:
 - a. The activity will be a residential development having less than fifty percent (50%) impervious area, disturbing more than five (5) acres.
 - b. The activity will be a residential development having more than fifty percent (50%) impervious area, disturbing more than three (3) acres.
 - c. The activity will be a nonresidential development, disturbing more than three (3) acres, or
 - d. A parking lot of one (1) acre or more, or
 - e. In the opinion of the City Engineer, the runoff from the land disturbing activity will create a hazard by exceeding the safe capacity of the receiving water body in the area; or will cause undue channel erosion or an undue increase in water pollution by increased scour and transport of particles; or will otherwise endanger the downstream property owners or their property. Safe capacity is defined as the rate of flow that can be handled without flooding.
- (2) The owner, land occupier or land user shall be in compliance with this Subsection if he follows the procedure of such section and receives from the City Engineer an approved control plan and a permit before commencement of any land disturbing activities on lands subject to control under this Section.

(e) **Standards for Storm Water Runoff Control for Land Disturbing Activities.**

- (1) Land disturbing activities subject to runoff control regulation as described in this Chapter shall meet the corresponding requirements of subparagraphs a, b and c below:
 - a. Residential and other non-industrial, and non-commercial certified surveys shall incorporate the following storm water control measures:
 1. All roof drainage shall discharge to either:
 - i. Pervious surfaces with an overland flow distance of at least thirty (30) feet;
 - ii. An infiltration device.
 2. All driveways shall slope to adjacent lawns to the extent practicable.
 3. Where conditions are such that the depth to the water table is three (3) feet or greater during at least nine (9) months of the year, the storm water drainage system for the development shall include grassed swales for area drainage and underground perforated drainage pipe for storm runoff conveyance. The applicant shall be responsible for documentation for areas to be exempted from these measures. Where the City Engineer finds the above to be impracticable, conveyance shall be by traditional means.
 - b. Industrial sites of less than one hundred thousand (100,000) square feet; and nonindustrial paved parking and storage areas with surface areas totaling five thousand (5,000) to five hundred thousand (500,000) square feet shall discharge to one (1) or more grit chambers or oil and grease traps. Each grit chamber or oil and grease trap shall be designed to remove all particles greater than one hundred (100) microns in size and shall be cleaned at least once every three (3) months. The pumped liquids from cleaning shall be discharged to a licensed wastewater treatment plant.
 - c. Industrial sites of more than one hundred thousand (100,000) square feet;

nonindustrial paved parking lots and storage areas greater than five hundred thousand (500,000) square feet; and industrial roofs larger than ten thousand (10,000) square feet shall discharge to one (1) or more wet detention basins. These basins shall have an aggregate area respectively of: At least one and one half percent (1.5%) of the contributing surface area of the industrial site or three percent (3%) of the contributing paved industrial areas, whichever is greater; at least three percent (3%) of the nonindustrial paved area draining to it; and at least three percent (3%) of the industrial roof area draining to it. These basins shall have a permanent pool depth of three (3) feet and shall be excavated periodically as needed to maintain the three (3) foot depth.

- (2) Regardless of proposed land use the proposed development shall:
- a. Not increase peak flow rates of storm runoff from that which would have resulted from the same storm occurring over the site with the land in its predevelopment condition, for storms of twenty-four (24) hour duration and recurrence intervals of two (2), five (5), ten (10), twenty-five (25), fifty (50) and one hundred (100) years, and
 - b. The volume of storm runoff resulting from the ten (10) year storm of twenty-four (24) hour duration shall not be greater after development than would have resulted from the same storm occurring over the site with the land in its predevelopment condition. Where a. and/or b. are found to be unacceptable or inevitable on the proposed site by the City Engineer, the applicant shall specify an off-site area to meet their provision and provide a suitable alternative contribution or determined in negotiation with the City Engineer.

- (f) **Erosion and Runoff Control by Public Dedication of Water Runoff Control.** The Common Council may require dedication of water runoff control measures. When such dedication is required, the dedicated land may also be utilized for parkland and for recreational use. Once dedicated and accepted, the City shall maintain the runoff control measures as necessary to adhere to this Chapter and any other applicable laws or contracts. The potential costs of maintaining proposed runoff control measures will be among the criteria considered in both accepting or rejecting an entire "Erosion and Runoff Control Plan" for the areas and determining whether or not to require dedication to the City of Westby and/or all runoff control measures. In the event that the City of Westby does not require dedication of any water runoff control measures, the continued maintenance of such measures shall be assured through such means as deed restrictions, easements or a contract with the City.

Sec. 15-2-9 Permit Application, Control Plan, and Permit Issuance.

- (a) **Permit Application.** No landowner or land user, other than the City, may commence a land disturbance or land development activity subject to this Chapter without receiving prior approval of a control plan for the site and a permit from the City Engineer. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this Chapter shall submit an application for a permit and a control plan and pay an application fee to the Building Inspector or City Engineer. By submitting an application, the applicant is authorizing the Building Inspector, City Engineer and other designated City officials to enter the site to obtain information required for a review of the control plan.
- (b) **Content of the Control Plan for Land Disturbing Activities.**
- (1) **Existing Site Map.** A map of existing site conditions on a scale of at least one (1) inch equals one hundred (100) feet showing the site and immediately adjacent areas:

- a. Site boundaries of adjacent lands which accurately identify site location;
 - b. Lakes, streams, wetlands, channels, ditches and other water courses on and immediately adjacent to the site. (Note: The local unit of government should identify sensitive local waters that may need to be further addressed by the control plan.);
 - c. 100 year floodplains, flood fringes and floodways;
 - d. Vegetative cover;
 - e. Location and dimensions of storm water drainage systems and natural drainage patterns on the site and the size, slope and land cover of the upslope drainage areas;
 - e. Locations and dimensions of utilities, structures, roads, highways, and paving; and
 - f. Site topography at a contour interval not to exceed five (5) feet.
- (2) **Plan of Final Site Conditions.** A plan of final site conditions on the same scale as the existing site map showing the site changes.
- (3) **Site Construction Plan.** A site construction plan including:
- a. Locations and dimensions of all proposed land disturbing activities;
 - b. Locations and dimensions of all temporary soil or dirt stockpiles;
 - c. Locations and dimensions of all construction site management control measures necessary to meet the requirements of this Chapter;
 - d. Schedule of anticipated starting and completion date of each land disturbing or land developing activity including the installation of construction site control measures needed to meet the requirements of this Chapter; and Provisions of maintenance of the construction site control measures during construction.
 - e. Provisions of maintenance of the construction site control measures during construction.
- (c) **Emergency Situations.** Notwithstanding the above, a private landowner or the City may commence land disturbing activity without an approved control plan where immediate action is necessary in order to respond to an existing or threatened emergency situation. When such emergency activity is undertaken, care will be taken to comply with the erosion and runoff control standards set forth in this Chapter to the fullest extent practicable under the circumstances. The Building Inspector or City Engineer shall be notified by the private landowner within three (3) hours after commencing such land disturbing activities under this Section.
- (d) **Minor Land Disturbing Activities - Content of Control Plan Statement.** Minor land disturbing activities are all those activities other than those deemed to be major land disturbing activities. For minor land disturbing activities, an erosion control plan (with simple map) shall be submitted to briefly describe the site and erosion controls (including the site development schedule). These documents will be used to meet the requirements of this Chapter.
- (e) **Review of Major and Minor Land Disturbing Control Plans.**
- (1) **Major Land Disturbing Activities.** Within thirty (30) days of receipt of a completed control plan, the City Engineer and Building Inspector shall determine if the requirements of this Chapter are met. The applicant shall be informed, in writing, of the reasons for rejection or conditions of approval.
 - (2) **Minor Land Disturbing Activities.** Control plan statements for minor land disturbing activities shall be reviewed by the Building Inspector for compliance with this Chapter. The Building Inspector shall approve, reject or conditionally approve the plan within the same number of working days as required for issuance of a building permit, but in no

event more than ten (10) working days after receipt of the completed control plan statement. If the control plan statement is rejected or conditionally approved, the applicant shall be informed, in writing, of the reasons for rejection or conditions of approval.

(f) **Permits.**

- (1) **Duration.** Permits shall be valid for a period of one hundred eighty (180) days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Building Inspector, Director of Public Works or City Engineer may extend the period one or more times for up to an additional one hundred eighty (180) days. The Building Inspector may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this Chapter.
- (2) **Permit Fees - Major Land Disturbing Activities.** The application fee for a major land disturbing activity permit shall be Twenty-five Dollars (\$25.00). In addition to this fee, before any permit will be issued, the applicant shall pay the actual engineering fees or expenses incurred by the City in connection with review of the control plan and the engineering fees or expenses estimated to be incurred for on-site inspection during the project. These additional charges shall be determined by the Building Inspector, Director of Public Works and City Administrator.
- (3) **Permit Fees - Minor Land Disturbing Activities.** The application fee for a minor land disturbing activity permit shall be Twenty Dollars (\$20.00), except where a building permit fee is paid in connection with the same activity, then a fee of Fifteen Dollars (\$15.00) shall be paid in order to obtain the necessary land disturbing activity permit.

(g) **Permit Requirements - Major Land Disturbing Activity.** All Major Land Disturbing Activity Permits shall require the permittee to do at least the following:

- (1) The applicant shall provide the City of Westby, prior to issuance of the permit, an irrevocable letter of credit, certificate of deposit or certified check to the City in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of all required control measures as determined by the City Engineer and/or Building Inspector. The security deposited shall guarantee that all required control measures will be taken or installed according to the approved plan. The security shall remain in full force for the entire period of the permit unless released earlier by the City. The City shall have the right to draw upon the security for the purposes of obtaining compliance with the approved Control Plan as it deems necessary. If the erosion and runoff control requirements of this Chapter are included as part of plat or certified survey map conditions of approval, then security for performance of the control requirements may be included as part of the overall security required for installation of improvements under this Code of Ordinances.
- (2) Contact the Building Inspector upon completion of any control measures and at least two (2) business days prior to commencing any land disturbing activity.
- (3) Obtain written permission from the City Engineer, Director of Public Works or Building Inspector prior to modifying the Control Plan. They are authorized to permit only those modifications that comply with the terms of this Chapter.
- (4) Install all control measures as identified in the Control Plan.
- (5) Maintain all control measures as identified in the Control Plan.
- (6) Repair any damage to adjoining surfaces and drainage ways resulting from any land developing or disturbing activities on the permitted site.
- (7) Inspect the control measures after each rain of 0.5 inches or more and make needed repairs immediately.

- (8) Allow the Building Inspector, City Engineer, or other designated City officials to enter the site for the purpose of inspecting for compliance with the Control Plan or for performing any work necessary to bring the site into compliance with the Control Plan and this Chapter.
- (8) Keep a copy of the approved Control Plan on site.
- (h) **Permit Requirements - Minor Land Disturbing Activity.** All Minor Land Disturbing Activity Permits shall require the permittee to:
 - (1) Obtain permission in writing from the Building Inspector prior to modifying the Control Plan. They are authorized to permit only those modifications that comply with the terms of this Chapter.
 - (2) Install all control measures as identified in the approved Control Plan.
 - (3) Maintain all control measures as identified in the Control Plan.
 - (4) Repair any damage to adjoining surfaces and drainage ways resulting from any land developing or disturbing activities on the permitted site.
 - (5) Inspect the control measures after each rain of 0.5 inches or more and make needed repairs immediately.
 - (6) Allow the Building Inspector, City Engineer, and other designated City officials to enter the site for the purpose of inspecting for compliance with the Control Plan or for performing any work necessary to bring the site into compliance with the Control Plan and this Chapter.

Sec. 15-2-10 Inspection.

- (a) The City Engineer, Building Inspector or other designated City officials shall inspect all Major Land Disturbing activities in order to ensure compliance with the Control Plan and permit.
- (b) In the case of Minor Land Disturbing activities, the Building Inspector shall inspect sites in order to ensure compliance with the Control Plan and permit.
- (c) If the land disturbing or land development activities are being carried out without a valid permit, i.e., unauthorized, City inspection officials may enter the land in question pursuant to the special inspection warrant provisions of Sec. 66.0119, Wis. Stats.

Sec. 15-2-11 Enforcement.

- (a) **Violations.** No land development or land disturbing activities within the scope of this Chapter may occur without full compliance with the provisions of this Chapter. Any person who violates or fails to comply with any provision of this Chapter is subject to the enforcement and penalty provisions contained herein.
- (b) **Enforcement.** This Chapter shall be enforced consistent with the policies and purposes underlying its adoption. The following enforcement actions, or any combination thereof, may be taken in case of a violation of this Chapter:
 - (1) **Stop-Work Order.**
 - a. A stop-work order may be issued by the City Engineer, Director of Public Works, Building Inspector, or their authorized agents, after an inspection if:
 - 1. Any land disturbing or land developing activity regulated under this Chapter is being undertaken without a permit;
 - 2. The Control Plan is not being implemented in a good faith manner;
 - 3. The conditions of the Permit are not being met.

- b. Stop-work orders may be retracted when compliance with the Chapter is obtained. The City Engineer, Director of Public Works, Common Council, Building Inspector or their designee has the authority to retract a stop-work order for Major Land Disturbing activities; the Building Inspector, Director of Public Works, City Engineer and their designees, may retract stop-work orders on Minor Land Disturbing activities.
- (2) **Revocation of Permit.** Where a stop-work order has been issued in order to obtain compliance with a Control Plan, the City may revoke the Permit if the permittee does not cease the illegal activity or obtain compliance with the Control Plan or Permit conditions within seventy-two (72) hours from issuance of the stop-work order.
- (3) **City to Perform Work.** Seventy-two (72) hours after posting a stop-work order, the City may issue a notice of intent to the permittee or landowner or land user of the City's intent to perform work necessary to comply with this Chapter. Upon receipt of permission from the landowner or pursuant to a court order, the City Engineer and/or other designated City officials or agents, as determined by the Common Council, may go on the land and commence the work. The costs of the work performed by the City, plus interest, shall be billed to the permittee or the landowner or may be recovered out of any security posted for such purpose. In the event a permittee or landowner otherwise fails to pay the amount due, the City Clerk-Treasurer shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Sec. 66.0627, Wis. Stats.
- (4) **Injunction and Other Judicial Remedies.** Compliance with the provisions of this Chapter may also be obtained by the Common Council authorizing the City Attorney to commence appropriate action to enjoin violations, compel compliance, or pursue other appropriate judicial relief.
- (5) **Private Remedies Preserved.** These enforcement provisions are not intended in any way to restrict or limit the rights of private parties to pursue whatever private legal remedies they may have available as a result of any erosion, sediment or water runoff.
- (6) **Penalties.** Any person violating any provision of this Chapter shall be subject to a forfeiture as provided in Section 1-1-7. Each day a violation exists shall constitute a separate offense. Before commencing a forfeiture action, the City shall issue a written warning to the person believed to be violating the Chapter, granting the person two (2) business days in which to remedy the violation and avoid the commencement of a forfeiture action.

Sec. 15-2-12 Appeals; Variances.

(a) Appeal or Variance Requests.

- (1) **By Applicant or Permittee.** Any aggrieved applicant, permittee or land user may appeal any order, decision, determination or inaction of the City in administering or enforcing this Chapter, or may apply for a variance from the requirements of this Chapter. A Twenty five Dollar (\$25.00) filing fee must accompany the appeal or variance request. Appeal or variance requests must be submitted in writing, state the grounds for the appeal or variance request, and be filed with the City Clerk-Treasurer. Publication and other associated costs will be in addition to this fee and paid by the applicant.
- (2) **Appeal By Citizens.**
 - a. An appeal of any order, decision, determination or inaction of the City in administering or enforcing this Chapter may be commenced upon the filing of a petition signed by twenty-five (25) adult residents of the City and payment of a Fifty Dollar (\$50.00) fee to cover the cost of the appeal.

- b. The appeal must be filed with the City Clerk-Treasurer and shall state written grounds for the appeal. A copy of any citizen appeal shall be delivered or mailed to the applicant or permittee by the City Clerk-Treasurer within five (5) business days of its filing with the City. The filing of a citizen appeal, by itself, does not prohibit the commencement or continuation of any work or activity.
 - (3) **Appeal Deadline.** Appeals by applicants, permittees or citizens must be filed within forty-five (45) days of the order, decision, determination or inaction being appealed.
 - (4) **Multiple Appeals Prohibited.** Once an appeal has been filed on a matter, no other appeal on the same order, decision, determination or inaction will be allowed. The Board of Appeals shall consolidate appeals wherever possible to avoid a multiplicity of appeal proceedings and to hasten the final resolution of a matter. The Board of Appeals may allow additional parties to join a pending appeal where appropriate and where such addition will not delay the proceedings.
- (b) **Authority.**
- (1) **Authority to Grant Variances.** The Board of Appeals shall decide all variance requests in accordance with the provisions of this Code of Ordinances. The Board of Appeals shall only grant such variances from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Chapter is impracticable or otherwise unreasonable or demonstrated to be unnecessary. Such variances may be granted only when the Board of Appeals has been presented with satisfactory proof that the variance will achieve compliance results comparable to those set forth in this Chapter.
 - (2) **Appeals.** The Board of Appeals shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by City officials in administering this Chapter. The Board of Appeals shall use the rules, procedures, duties and powers authorized by City ordinance and statute for the Board of Appeals in hearing and deciding appeals and authorizing variances. The Board of Appeals shall hear and decide within thirty (30) days of receipt of the written request and payment of the appeal fee, unless an extension is agreed upon by the Appellant and Board of Appeals. The procedures utilized by the Board of Appeals shall be as prescribed in the City Zoning Code.
- (c) **Enforcement Not Stayed.** The filing of an appeal or variance does not preclude the City from commencing or continuing any of the enforcement actions set forth herein or a forfeiture proceeding set forth in this Chapter unless the Common Council specifically agrees to stay such enforcements.

Title 15 – 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.

It is hereby declared to be the policy of the City of Westby 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, family status, marital status of persons maintaining a household, lawful source of income, place of birth, or age, and, to that end, to prohibit discrimination in housing by any persons.

State Law Reference: Section 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, family status, 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, sub-lessee, 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 resident 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/her race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, family status, 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/her race, color, religion, ancestry, national origin, handicap, marital status, family 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/her race, color, religion, ancestry, national origin, handicap, marital status, sexual preference, family status, 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, family 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.
- (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, family status, 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/she 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, family status, 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/her 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, family status, sexual preference, sex, age, or place of birth of such person or of any person associated with him/her 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, family status, 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, family 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/her 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/her 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

Property Maintenance Code

15-4-1	Title
15-4-2	Intent and Purpose
15-4-3	Rules and Definitions
15-4-4	Minimum Standards for Basic Residential Equipment, Lighting, Ventilation, Heating and Electrical Service
15-4-5	Safe and Sanitary Maintenance of Property Exteriors
15-4-6	Minimum Quantity, Location and Use of Space in Residential Buildings
15-4-7	Fixing the Responsibility of Residential Owners, Operators, Tenants, and Occupants
15-4-8	Inspection
15-4-9	Designation of Unit Dwellings and Legal Procedure Therefor; Condemnation
15-4-10	Enforcement; Service of Notice and Orders; Hearings

Sec. 15-4-1 Title.

This Chapter shall be known as the City of Westby Property Maintenance Code.

Sec. 15-4-2 Intent and Purpose.

- (a) **Intent.** 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 Westby and environs. This includes, among others, physical, aesthetic, and property values.
- (b) **Purpose.** It is recognized that there may now be or may, in the future, be 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.
- (c) **Conflict of Provisions; Exceptions.**
 - (1) In any case where a provision of this Chapter is found to be in conflict with another provision of the City of Westby Code of Ordinances, the provision which established the higher or more restrictive standard for the protection of the public health, safety and welfare shall prevail.
 - (2) The provisions of this Chapter shall not apply to construction of new buildings, which are subject to other local and state regulations.
- (d) **Validity of Prior Regulations.** Equipment, systems, devices and safeguards required by a previous state law, local ordinance or code under which the structure was constructed, lawfully altered or repaired or the premises developed, shall be maintained in good repair and in good working order. The requirements of this Chapter are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in good repair and in proper working order in structures.
- (e) **Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this Chapter shall be executed, constructed and/or installed in a workmanlike manner and in accordance with the manufacturer's installation instructions.

- (f) **Historic Buildings.** The provisions of this Chapter shall apply to structures designated by the federal, state or local government as historic buildings. However, any work to said structures shall also comply with appropriate zoning regulations, the standards contained in Title 15, Chapter 1 "Building Code", and Title 15, Chapter 5 "Historic Preservation", of the Westby Code of Ordinances; and COMM 70, Wis. Adm. Code, Historic Building Code.

*Cross-Reference: Title 11, Chapter 6, Public Nuisances; and
Section 10-5-8, Junked Vehicles, Refuse and Appliances*

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.** 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 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 of Westby 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.
 - (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 unpierced 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 Clerk-Treasurer, Police Department, Zoning Administrator, Building Inspector, or public health authorities, 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) **Endanger(s) Safety.** To threaten to or to injure or damage any person or property, or the life, health and safety of any person.
- (13) **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.
- (14) **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.
- (15) **Friable Material.** Any material applied on ceilings, walls, structural members, piping, duct work, or any other part of a building which when dry may be crumbled, pulverized, or reduced to powder by hand pressure. The term includes non-friable material after such previously non-friable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.
- (16) **Good Working Condition.** Capable of performing the task for which it was designed and in the manner intended by this Chapter.
- (17) **Habitable Space.** One (1) or more rooms in a dwelling used primarily for sleeping, living, or dining purposes.
- (18) **Impervious to Water.** Constructed of concrete, cement block, terrazzo, brick, tile, or other material approved by the Building Inspector, and having tight-fitting joints.
- (19) **Infestation.** The sustained presence of household pests, vermin, or rodents.
- (20) **Living Room.** A room used primarily for living, dining, or cooking purposes.
- (21) **Lodging House.** A dwelling containing lodging rooms that will accommodate five (5) or more persons not members of a family.
- (22) **Lodging Room.** A portion of a dwelling used primarily for sleeping and living purposes, excluding cooking facilities.
- (23) **Mixed Occupancy.** Occupancy of a building in part for residential use and in part for some other use not accessory thereto.
- (24) **Nuisance Vehicles.** Any inoperable, unlicensed, un-roadworthy, disassembled or wrecked motorized or un-motorized vehicle or trailer in violation of Sec. 10-5-8.
- (25) **Occupant.** One who occupies or has actual possession of usable space.
- (26) **Open and Accessible Structure.** A structure which has no barrier to unlawful entry.
- (27) **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.
- (28) **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.
- (29) **Person.** Any individual, firm, corporation, association, or partnership.
- (30) **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.
- (31) **Provided.** Furnished, supplied, paid for or under control of the owner.
- (32) **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.)
- (33) **Room.** A partitioned part of the inside of a building. For the purpose of this definition, partition shall mean something that divides interior space, especially an interior dividing wall. A wall is one of the sides of a room or building connecting floor and ceiling and may also include anything which encloses or separates space. A partition or wall which intrudes into the space by more than one-third (1/3) of the least dimension of an existing room may be regarded as creating an additional separate room. The partitioned space shall be considered as a room if privacy is implied; light and ventilation are affected; or a bedroom through a bedroom, bathroom through a bedroom or bedroom through a bathroom situation is created.
- (34) **Rooming House.** See "Lodging House" and "Lodging Room."
- (35) **Screened.** The use of any acceptable screening materials that comply with City Zoning Code requirements and results in a screening that is at least seventy-five (75%) percent opaque.
- (36) **Sleeping Room.** A room used for sleeping purposes.
- (37) **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.
- (38) **Structure Unfit for Occupancy.** A structure which is an unsafe structure; or a structure which is unfit for habitation, occupancy or use because of the degree to which the structure is dilapidated, in disrepair or lacks maintenance, or a structure which is unsanitary, vermin or rat infested, contains filth and contamination, or which lacks adequate ventilation, illumination, sanitary or heating facilities, or other essential equipment required by this Chapter.
- (39) **Supplied.** Paid for, furnished, or provided by or under control of the owner or operator.
- (40) **Unlawful Structure.** A structure, in whole or in part, occupied by more persons than permitted under this Chapter, or a structure which is erected, altered or occupied contrary to state law or the City of Westby Code of Ordinances.
- (41) **Unsafe Equipment.** Any equipment within the structure or servicing the structure which is in such disrepair or condition that such equipment is unsafe for operation and use.
- (42) **Unsafe Structure.** A structure that endangers safety for reason that it is in imminent danger of failure or collapse, or a part of the structure has failed or collapsed, or the structure is in a condition of decay or dilapidation, or the structure has the presence of explosives, toxic or unhealthy fumes or vapors.

- (43) ***Vacant Substandard Structure.*** A vacant structure that has been damaged by fire, water, wind, animals, or vandalized and/or entered and/or inhabited and unfit for habitation or occupancy
- (44) ***Workmanlike.*** Work of such character so as to meet manufacturer's specifications, accepted national standards or recognized trade practices, and to provide a durable result as intended to ensure public safety, health and welfare insofar as they are affected by building construction, use and occupancy.

Sec. 15-4-4 Minimum Standards for Basic Residential Equipment, Lighting, Ventilation, Hearing 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 Sec. COMM 82.40, Wis. Adm. 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 ten (110) 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, specifically Title 8, Chapter 3 "Refuse Disposal and Collection", and Title 8, Chapter 4 "Recycling", of the City of Westby Code of Ordinances.
 - (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. All stairways and platforms shall be protected with hand-rails and guardrails as specified in Secs. COMM 21.04(2) or COMM 51.161 and COMM 51.162, Wis. Adm. 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 seven (7) 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, sleeping, kitchen or bathroom shall have available natural light and ventilation complying with Secs. COMM 21.05 or COMM 57.13, Wis. Adm. Code, as dictated by the occupancy of the building. Existing light and ventilation conditions which do not comply with COMM Codes may remain in use with the granting of a variance by the Board of Appeals.
 - 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.
 - 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.** 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 capacity of the smallest wire size in the circuit:
- a. Every dwelling unit or room shall have electric service capable of providing at least three (3) watts per square foot of total floor area [air conditioners, ranges, space heaters and motor driven equipment one-eighth (1/8) hp. or over excluded.]
 - b. Every lavatory, bathroom, kitchen or kitchenette, dining room, laundry room and furnace room shall contain at least one (1) approved ceiling or wall type electric light fixture equipped with sufficient lamps or tubes to provide no less than five (5) foot candles at floor level at the center of the room. Where more than one

- (1) fixture is used or required, they shall be equally spaced as far as practicable. (switched outlet may be substituted for the ceiling or wall fixture in the dining room.)
- c. Convenience outlet receptacles shall be provided as follows: (measurements are at room perimeter and include doors and door-alcoves)
1. Living Room: One (1) per seventy-five (75) square feet or major fraction [minimum of two (2).]
 2. Dining Room: One (1) per seventy-five (75) square feet or major fraction [minimum of two (2).]
 3. Kitchen: One (1) per eight (8) feet or fraction of countertop and preparation area measured at rear (preparation area includes countertops, sinks, range tops, and all other similar areas at counter height.) Island type work areas require one for each eight (8) feet or less of length. Separate outlets shall be provided for refrigerators.
 4. Dining Areas in Kitchen: One (1) per seventy-five (75) square feet or major fraction.
 5. Bedroom: One (1) per seventy-five (75) square feet or major fraction [minimum of two (2).]
 6. Laundry: One (1) when laundry equipment is present.
 7. Bathrooms and Lavatories: One (1) [may be part of wall fixture if seventy-two (72) inches or less from floor].
 8. Other Habitable Rooms: Minimum of two (2).
- d. Fixed appliances exceeding one-eighth (1/8) hp. or three hundred (300) watts rating shall not be connected to general purpose branch circuits. Convenience outlets are to be located to prevent use of extension cords (NEC 400-8).
- e. All cords and temporary wiring not in compliance with NEC Article 400-A, and all exposed abandoned wiring, shall be removed immediately upon the direction of the Building Inspector or Fire Inspector.
- f. Switches or equivalent devices for turning on one (1) light in each room or passageway shall be located so as to conveniently control the area to be lighted.
- g. Public halls and stairways in multiple dwellings shall be adequately lighted by natural or electric light at all times so as to provide in all parts thereof at least two and one-half (2-1/2) foot candles of light at the tread or floor level. Halls and stairways in structures containing not more than three (3) dwelling units may be supplied with conveniently located switches, controlling the lighting system, which may be turned on when needed. Other occupancies require full time or automatic time-switched lighting. When dwelling unit doors open to the outside a minimum of two and one-half (2-1/2) foot candles of illumination at the locks are required. Required parking areas for more than three (3) cars shall be lighted to a minimum of one (1) foot candle on all surfaces.
- h. When the service in an existing residential building is changed for any reason, the entire building electrical system shall be brought to the above minimum standards. The minimum replacement electrical service shall be one hundred (100) amps for the first two (2) dwelling units in a building, and fifty (50) amps for each additional unit. Where electric heat and air conditioner over twenty (20) amps are added or in place, additional capacity to cover this demand is required. All electrical work shall be done in accordance with the National Electrical Code.

- (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-seven (67) 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 Exteriors.

- (a) **Purpose.** The purpose of this Section is to recognize the private and public benefits resulting from the safe, sanitary, and attractive maintenance of structures, yards, or vacant areas. Attractive and well-maintained property will enhance the neighborhood and City of Westby and provide a suitable environment for increasing physical and monetary values.
- (b) **Exterior Premises Maintenance Requirements.** Every owner, operator, occupant or tenant shall improve and maintain all property under his/her control to comply with the following minimum requirements:
 - (1) **Drainage.** All courts, yards, or other exterior 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 covered with grasses and vegetation shall be kept properly trimmed and free from noxious weeds as required by Sections 8-1-4, 8-1-5 and 8-1-6 of the City of Westby Code of Ordinances and the Wisconsin Statutes. Where required weed and grass cutting is not performed by the property owner, the Weed Commissioner or other appropriate City official shall perform said weed/grass cutting, pursuant to Section 8-1-6, and process the charge therefor as a special charge against the benefited property.
- (3) **Debris.** Pursuant to this Chapter and Section 8-1-2 "Public Safety and Health Hazards/ Nuisances Regulated", Section 8-1-8 "Unhealthy, Hazardous or Unsightly Materials on Public or Private Property", Section 10-5-8 "Junked Vehicles and Appliances on Private Property", and Title 11, Chapter 6 "Public Nuisances", of the City of Westby Code of Ordinances, all exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, junk rubbish, recyclables or garbage; physical hazards; inoperable vehicles; rodent harborage and vermin infestation; and animal feces. Exterior property areas shall be kept free from rubbish, debris and garbage which are not contained as required under Title 8, Chapters 3 "Refuse Disposal and Collection" and Chapter 4 "Recycling" of the City of Westby Code of Ordinances. Specifically, all exterior property areas shall be maintained:
- a. Free from refuse, rubbish and garbage which are not properly contained as required by Title 8, Chapter 3 "Refuse Disposal and Collection" for purposes of storage and collection.
 - b. Free from recyclable materials which are not properly separated and contained as required by Title 8, Chapter 4 "Recycling" for purposes of collection and storage, provided such outside storage of recyclables is for not longer than fourteen (14) days or to accommodate collection, whichever is first.
 - c. Free from inoperable or nuisance vehicles, boats, recreational vehicles, trailers, building materials, scrap metals, appliances, furniture or other debris in violation of Section 10-5-8, "Junked Vehicles, Refuse and Appliances on Private Property".
 - d. In a condition so as not to become infested with rodents or a rodent harborage as required by Section 8-1-9 "Rodent Control".
 - e. Free from building materials as required by Section 10-5-8 "Junked Vehicles and Appliances on Private Property", unless such materials are temporarily stored on the property for use with a building project pursuant to a valid City building permit.
 - f. Free from animal feces as required by Section 7-1-13 "Animal Feces."
 - g. Free from physical hazards.
 - h. Free from appliances, furniture, furnaces, water heaters, air conditioners, etc., which are not integrated into a structure within ten (10) days of being placed on the premises.
 - i. Free from any accumulation of combustible materials which are not used as an integral part of an authorized business lawfully carried out on the premises.
- (4) **Walks; Parking Areas.** Sidewalks, driveways, parking areas, and similar paved areas shall be properly maintained in a safe, sanitary and substantial condition. Proper 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.***

- a. Yard areas of real estate shall not be permitted to deteriorate or remain in a condition that is not in accord with the following: Yard areas shall be kept in a clean and sanitary condition, free from any accumulation of combustible or non-combustible materials, debris, or refuse. 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.
- b. Plantings shall be maintained as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance and value of the property on which located, and thereby the appearance and value of the neighborhood and City of Westby. 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.
- c. The unpaved public terrace area, as defined in Section 6-4-2, abutting private property shall be maintained by the abutting property owner, specifically conforming to Sections 8-1-4, 8-1-5, and 8-1-6 of the City of Westby Code of Ordinances.

(7) ***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 of Westby, 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/her 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 of Westby 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.

(8) ***Accessory Buildings/Structures.*** All accessory structures and buildings, including windows, doors and roofs which are a part thereof, shall be maintained structurally sound, in good repair, reasonably watertight and rodent-proof. Factors indicating a state of disrepair include, but are not limited to, defective or collapsed roofs, missing windows, and/or deteriorated or missing siding.

(9) ***Fences.*** Pursuant to Section 13-1-202 "Fences and Hedges", all fences shall be maintained in good repair, be structurally sound and plumb. Fence surfaces shall be free of rust corrosion, deterioration, decay, missing parts, and peeling, flaking or deteriorated paint. Wood surfaces, other than decay-resistant wood, shall be protected from the elements and

decay by painting, staining or other protective covering or treatment. Fences shall not be of a type prohibited by Section 13-1-202.

- (10) **Graffiti.** In accordance with Section 11-3-12, the owner, occupant, operator, or tenant of any building or accessory building/structure shall be responsible for removing all graffiti therefrom within fifteen (15) days following receipt of a City notice to remove the graffiti.
- (c) **Hazardous Conditions.** Every dwelling shall be structurally sound and shall be free of conditions which constitute a substantial hazard to the health and safety of the occupant(s) or which create an unreasonable risk of personal injury resulting from any reasonably foreseeable use of the dwelling (other than negligent use of the dwelling by the occupants). Violations include, but are not limited to, sewage in the basement, excessive damage to the interior which may pose a health problem, or excessive solid waste accumulation inside the structure which may pose a health problem.
- (d) **Public Areas.** Every owner of a dwelling containing three (3) or more dwelling units shall be responsible for maintaining a clean and sanitary condition the shared or public areas of the dwellings and premises thereof.

Sec. 15-4-6 Minimum 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 at least five hundred (500) square feet of floor area on the first floor level.
 - (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) **Cellar Space.** No cellar space shall be used as a sleeping room.
 - (6) **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.

- (7) **General Interior 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 weather tight, watertight, and rodent-proof and shall be kept in proper repair and shall be capable of affording privacy. Any hazardous sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breaching shall be so constructed and maintained so as to 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) **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 Secs. COMM 21.04 or 51.16, 51.161, 51.162 and 51.164, Wis. Adm. Code, as dictated by the type of occupancy in the building.
- (9) **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.
- (10) **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.
- (11) **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.
- (12) **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/her, except for such temporary interruption as may be necessary while actual repairs are in process, or during temporary emergencies when discontinuance of service is approved by an authorized inspector.
- (13) **Abandoned Fuel Oil Tanks.** Abandoned fuel oil tanks shall be removed from the building.
- (c) **Exterior Walls and Surfaces; Repairs.**
- (1) **Good Repair Requirement.** All building exterior walls and surfaces, including, but not

limited to, decorative features and overhang extensions, doors, door and window frames, cornices, porches and trim, shall be maintained in good repair. All exterior surfaces shall be free from decay, missing parts, rot, serious cracking, irregularities and peeling.

- (2) **Adequate Paint/Stain to be Maintained.**
- a. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting, staining or other protective covering or treatment. Peeling, flaking and chipped paint shall be corrected and affected surfaces restored and repainted in a workmanlike manner.
 - b. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and watertight. All surface repairs shall be completed to closely match the existing surface color and texture.
- (d) **Structural Members.** All structural members shall be maintained structurally sound in good repair, and be capable of safely supporting the imposed loads.
- (e) **Roofs and Drainage.** The roof and flashing shall be maintained structurally sound and not have defects that admit water. The roof coverings shall be in good repair, free from missing components, storm damage and missing components. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof water shall not be discharged in a manner that creates a public nuisance.
- (f) **Overhang Extensions.** All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained structurally sound and in good repair with proper anchorage.
- (g) **Porches, Decks, Ramps, Balconies and Stairways.** Every exterior stairway, deck, porch, ramp and/or balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads. Any new or replacement stairways, decks, porches, ramps and/or balconies shall be installed in accordance with the requirements of COMM 20-25, Wis. Adm. Code.
- (h) **Windows.** Every window, storm window, skylight and/or screen window, including frames, shall be kept in sound condition, good repair and weather tight. All window glazing shall be maintained free from holes and cracks.
- (i) **Doors.** All exterior doors, door assemblies and hardware shall be maintained in good working condition and good repair.
- (j) **Animals - Unsanitary Conditions.** No occupant of a residence shall keep any animals or pets in a dwelling or rooming unit, or on any premises, in such a manner as to create unsanitary conditions, including, without limitation, accumulation of excrement.

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

- (a) **Purpose.** Except as otherwise specified herein, each owner, operator, tenant and/or occupant shall be responsible for the maintenance of structures and premises under this Chapter, and shall be subject to any penalties for conviction of any violation of this Chapter.
- (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 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/her refuse, recyclables, and garbage as required by the City of Westby 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 the City of Westby Code of Ordinances.
- (4) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises and every occupant of a dwelling unit in a residential building shall be responsible for such extermination whenever his/her dwelling unit is the only one infested. Notwithstanding the foregoing by failure of the owner to maintain a residential building in a reasonable condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units or lodging rooms in any residential building or in the shared or public parts of any residential building, extermination thereof shall be the responsibility of the owner.
- (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) **Inspection Authorization; Right of Entry.** 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) **Re-inspections.** Every owner, occupant, operator and tenant of a premises shall cooperate with and facilitate re-inspections of premises at reasonable times to determine Chapter compliance with an order to repair. Failure of said owner, occupant, operator and/or tenant to cooperate with and facilitate such re-inspection(s) by the Building Inspector shall be a violation of this Chapter.
- (c) **Right of Tenant to Provide Entry.** No owner, occupant, or tenant of a residential or commercial 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 Therefore; Condemnation.

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) **Condemnation Criteria.** 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) **Vacation of Dwelling.** 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 Building Inspector.
- (c) **Unfit Dwelling Not to be Reoccupied.** No building or structure or part thereof which has been designated and placarded as unfit for human habitation and in need of repairs or razing shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Building Inspector. 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) **Removal of Condemnation Placard.** No person shall deface or remove the placard from any building or structure, or part thereof, which has been condemned as unfit for human habitation and placarded as such.
- (e) **Legal Proceeding for Razing.** Any building or structure or part thereof designated as unfit for human habitation and in need of repairs or razing by the Building Inspector, which in the opinion of the Building Inspector would be unreasonable to repair, shall be razed or removed upon legal written service of the order of Building Inspector. If the owner shall fail or refuse to comply with the order, the Building Inspector shall refer such violation to the City Attorney who will start any legal proceedings necessary to cause such building to be razed or removed as a violation of this Chapter.
- (f) **Vacant Damaged Buildings.** Any building which has been vacant for more than sixty (60) days for any reason and has been damaged, illegally entered or vandalized shall be secured against entry. This shall include adequately boarding up doors, windows, and other openings in a workmanlike manner so as to prevent illegal entry, vandalism or damage:
 - (1) The building's utilities, plumbing, electrical and heating systems in vacant buildings shall be maintained at all times in a safe condition or inactivated so as to prevent the possibility of damage to the structure by the failure of such utilities and so as to prevent hazardous and dangerous conditions.
 - (2) When any building has been damaged by fire or other cause and when hazardous or dangerous conditions exist and when such building cannot be secured by conventional locking or boarding up of windows and doors, such building shall be fenced off so as to prevent access and entry to the structure and the area immediately surrounding the structure within three (3) days of the damage by fire or other cause.

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

(a) Notice of Violation.

- (1) Whenever the Building Inspector or Chief of Police 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 (owner, occupant, operator and/or tenant) 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/tenant, 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/tenant, if a copy thereof is served upon him/her personally; or if a copy thereof is sent by first class 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) **Notice of Subsequent Violations.** Whenever there has been notice of a violation issued to the owner, the agent of any owner, or the occupant/tenant 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 or condemnation action in a court of record.

(c) **Hearing.** 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 Building Inspector, provided that such person shall file, in the office of the Building Inspector, 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 Building Inspector 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 Building Inspector may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if, in the Building Inspector's judgment, the petitioner has submitted a good and sufficient reason for such postponement.

(d) **Post-Hearing Determination; Permit Revocation.** Following such hearing, the Building Inspector shall sustain, modify, or withdraw the notice, depending upon his/her findings as to whether the provisions of this Chapter and of the rules and regulations adopted pursuant thereto have been complied with. If the Building Inspector sustains or modifies such notice, it shall be deemed to be an order. Any notice given pursuant to this Chapter shall automatically become an order if a written petition for a hearing is not filed in the office of the Building Inspector within ten (10) days after such notice is provided. 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 Building Inspector, the permit shall be deemed to have been revoked. Any such permit which has been suspended by a notice shall be

deemed to be automatically revoked if a petition for hearing is not filed in the office of the Building Inspector within ten (10) days after such notice is served.

- (e) **Written Record.** The proceedings at such hearing, including the findings and decision of the Building Inspector, 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 Building Inspector may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.
- (f) **Further Appellate Actions.** Determinations of the Building Inspector and/or Chief of Police under this Section may be appealed to the Board of Appeals using the procedures prescribed in Sections 13-1-280 through 13-1-284 of this Code of Ordinances.
- (g) **Emergency Situations.** Whenever the Building Inspector and/or Chief of Police finds that an emergency exists which requires immediate action to protect the public health, safety, or welfare, the Building Inspector and/or Chief of Police may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the Building Inspector and/or Chief of Police 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 Building Inspector and/or Chief of Police 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 Building Inspector and/or Chief of Police shall continue such order in effect, or modify it, or revoke it.
- (h) **Penalties.** In addition to injunctive relieve and/or other corrective remedies permitted by state law, violators under this Chapter are subject to the penalties prescribed in Section 1-1-7 of the City of Westby Code of Ordinances. In addition to forfeiture and injunctive remedies, the City or its agent may also, in the event of non-compliance, remove the refuse from the parcel at the owner's expense as a special charge pursuant to Sec. 66.0627, Wis. Stats.

Title 15 – Chapter 5

Historic Preservation

15-5-1	Declaration of Public Policy and Property
15-5-2	Definitions
15-5-3	Power and Duties of Historic Preservation Committee; Procedure for Designation of Sites, Structures, Landmarks and Districts
15-5-4	Criteria for Determining Eligibility
15-5-5	Register of Historic Sites, Structures, Landmarks and Districts
15-5-6	External Alteration of Designated Property
15-5-7	Transfer of Historically Designated Property
15-5-8	Review of Permits
15-5-9	Designation of Repository for Documents

Sec. 15-5-1 Declaration of Public Policy and Property.

The Common Council hereby declares as a matter of public policy that the protection, preservation, perpetuation and use of places, areas, buildings, structures and other objects having special historical, community or aesthetic interest or value is a public advantage and is promoted in the interest of the people. The purpose of this Section is to:

- (a) Safeguard the cultural resources of the City of Westby by preserving sites, structures, landmarks and districts which reflect elements of the City's cultural, social, economic, political, visual or architectural history.
- (b) Protect and enhance the City's attractions to visitors and residents, and serve as a support and stimulus to business, industry and tourism.
- (c) Foster civic pride in the beauty and notable achievements of the past.
- (d) Enhance the visual and aesthetic character, diversity and interest of the City.
- (e) Promote the use and preservation of historic sites, structures, landmarks and districts for the education and general welfare of the people of the City with respect to the cultural, civic, architectural and historic heritage of the City of Westby.

Sec. 15-5-2 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

- (a) **Committee.** The Historic Preservation Committee created hereunder, or other body assigned such responsibilities.
- (b) **Cultural Resources.** Any work of man or nature that is primarily of interest for its historical, archaeological, natural scientific or aesthetic value, including, but not limited to, historic houses and other structures such as barns, schools, kilns, archaeological sites, American Indian burial grounds and earthworks, buildings identified as the work of an architect, developer or master builder whose work has influenced the City, and structures noteworthy because of their design, detail, materials or craftsmanship, or association with historic persons or events.
- (c) **Historic District.** An area of the City which contains one (1) or more designated sites, structures or landmarks. The historic district's boundaries shall be shown on the City zoning map.
- (d) **Historic Site.** Any area, place, structure, land or other object which has been duly designated by the Common Council; this includes prehistoric aboriginal sites.

- (e) **Landmark.** A natural or man-made feature of local or regional interest which is associated with a particular historic or prehistoric event.
- (f) **Structure.** Any man-made building which has special character, historic interest or value as part of the development, heritage or cultural characteristics of the City.

Sec. 15-5-3 Powers and Duties of Historic Preservation Committee; Procedure for Designation of Sites, Structures, Landmarks and Districts.

- (a) **Composition.**
 - (1) The Common Council shall establish a five (5) member Historic Preservation Committee vested with the authority and responsibility to propose action to safeguard and preserve the historic heritage of the City. In this role, the Historic Preservation Committee will act in an advisory capacity to the City Planning Commission in all matters concerning properties which are designated as historical sites, structures, landmarks and districts within the City.
 - (2) Members of the Historical Preservation Committee shall be chosen and appointed with consideration of one (1) or more of the following qualities:
 - a. Active interest in the historic preservation of the City of Westby.
 - b. Knowledge of the history of the City and its environs.
 - c. Expertise and knowledge concerning architecture and archaeology.
 - d. Ability to utilize authoritative resources concerning historic preservation.
 - (3) The initial five (5) member committee shall be appointed to serve terms as follows: position number one (1), one (1) year; position number two (2), two (2) years; position number three (3), three (3) years; position number four (4), four (4) years; and, position number five (5), five (5) years. As each term expires, a new appointment or reappointment shall be made by the Common Council for a term of five (5) years. The Historic Preservation Committee shall furnish recommendations to the Council for consideration for new appointments.
 - (4) The Historic Preservation Committee shall elect a chairperson to serve a one (1) year term. This chairperson may be reelected or a new chairperson may be elected annually.
 - (5) The Historic Preservation Committee shall hold meetings upon the call of its chairperson. Additional meetings shall be held as needed to perform the duties of the Committee. A quorum shall consist of three (3) members.
 - (6) The Planning Commission and City Building Inspector shall be fully informed of the decisions and recommendations of the Historic Preservation Committee in order to distinguish and expedite actions to promote and safeguard the City's program of historic preservation.
- (b) **Inventory of Cultural Resources.** The Common Council shall direct and empower the Historic Preservation Committee to establish and maintain a continuing inventory of cultural resources in the City for consideration for placement on the historic register of the City. Historic sites, structures, landmarks and districts shall be chosen for their eligibility as described under Section 15-5-4 below.
- (c) **Nomination of Properties.** Property nominated by the Historic Preservation Committee to be designated as a historic site, structure, landmark or part of a district shall require a public hearing under the direction of the Planning Commission with the approval of the Common Council. Notice of the public hearing shall be published and also mailed to the owners of the property proposed.
- (d) **Notice to Owners.** The Historic Preservation Committee shall provide full information to the property owners of the civic advantages and responsibilities involved in accepting such designation. Approval of the property owners shall be obtained a prerequisite to official

designation.

- (e) **Restrictive Covenant.** The owner of any historic site or structure may, at any time following such designation of this property, enter into a restrictive covenant on the subject property after negotiating with the Historic Preservation Committee. The Committee may assist the owner in preparing such covenant in the interest of preserving historic property. The owner shall record such covenant in the County Register of Deeds office and shall notify the City Assessor of such covenant and the conditions thereof.
- (f) **Assistance With Other Registrations.** The Historic Preservation Committee shall provide encouragement, information and assistance to owners of City designated historic properties who show interest in seeking nomination to the National Register of Historic Places through the State Historical Society.
- (g) **Promotional Activities.** The Historic Preservation Committee shall promote interest in the community for designation of properties as historic sites, structures, landmarks or as part of a historic district, and assist property owners in submitting qualifications of their properties as historic sites for consideration of such designation.
- (h) **Subcommittees.** The Historic Preservation Committee shall have the power to appoint subcommittees from the community and enlist the aid of area historical societies and other organizations for assistance in promoting the policy of the City in the interest of historic preservation.
- (i) **Funding.** As it deems advisable, the Historic Preservation Committee is empowered to solicit and receive funds for the purpose of preservation of landmarks of the City. Funds for such purposes shall be placed in a special City account.

Sec. 15-5-4 Criteria for Determining Eligibility.

In determining the eligibility of any area, site, place, building, structure or district within the City as a historic landmark, the Historic Preservation Committee shall consider the following factors with respect to eligibility:

- (a) Its character, interest or value as a part of the history or cultural heritage of the City, State or United States.
- (b) Its association with the persons or events which have made a significant contribution to the cultural heritage.
- (c) Its potential to yield information important in history or prehistory.
- (d) Its embodiment of distinguishing characteristics of an architectural type or style, or element of design, detail, materials or craftsmanship.
- (e) Its unique location or singular physical appearance representing an established and familiar feature of a neighborhood or community of the City of Westby.

Sec. 15-5-5 Register of Historic Sites, Structures, Landmarks and Districts.

The City of Westby shall maintain a register of historic sites, structures, landmarks and districts.

Sec. 15-5-6 External Alteration of Designated Property.

The owner of designated property shall report any planned external alteration, including demolition, to the respective property to the Historic Preservation Committee for review and recommendation. The Historic Preservation Committee will base its recommendation according to the guidelines set forth in *The Secretary of the Interior's Standards for Rehabilitation*.

Sec. 15-5-7 Transfer of Historically Designated Property.

- (a) The City Assessor shall notify the Historic Preservation Committee when the ownership of any historically designated property is transferred.
- (b) The Historic Preservation Committee shall inform the new owner of the importance of their property and their responsibilities under this Section.

Sec. 15-5-8 Review of Permits.

- (a) Notification of every application for building, zoning or demolition permits for properties on the City register shall be given by the City Building Inspector or his/her designee to the Historic Preservation Committee for its review. The Committee shall make a recommendation to the Planning Commission concerning the proposed permit.
- (b) Considering that time is of the essence, the Historic Preservation Committee shall act promptly in its consideration of an application for building, zoning or demolition permits in relation to designated properties. The review and recommendation shall be forwarded to the Planning Commission within thirty (30) days. The Planning Commission shall consider this review and make their recommendations to the Common Council. The Common Council, will vote to decide if the permit will be issued or denied.
- (c) The Planning Commission, in considering the recommendations of the Historic Preservation Committee, shall determine if the work to be performed adversely affects the designated historic property. In determining whether or not there is such an adverse effect, the Planning Commission shall consider the following factors:
 - (1) Whether the work will significantly alter the appearance of the building or structure so as to remove features which distinguish the historic site, structure, landmark or district as a significant cultural resource.
 - (2) Whether the use of the property will destroy, disturb or endanger a known or suspected archaeological feature.
- (d) The Historic Preservation Committee may also recommend to the Planning Commission variations which are comparable to the proposed changes if the Planning Commission determines that such variations are necessary to alleviate financial hardship placed upon the owner of the property. The Historic Preservation Committee will be allowed another thirty (30) days to determine such variations. The Committee's recommendation shall be considered by the Common Council before a vote is taken to determine if a building, zoning or demolition permit will be issued.
- (e) Nothing contained in this Section shall prohibit the construction, alteration or demolition of any improvement on a designated historic property, or in a historic district pursuant to any court judgment to remedy conditions determined to be dangerous to life, health or property. In such case, no approval from the Committee shall be required.

Sec. 15-5-9 Designation of Repository for Documents.

The office of the City Hall is designated as the repository for all studies, surveys, reports, programs and designations of all historic sites, structures, landmarks and districts.

Title 15 – Chapter 6

Grievances Regarding Access to Public Buildings, Programs, Services and Employment

15-6-1 Grievance Procedures Regarding Access to Public Buildings, Programs, Services and Employment

Sec. 15-6-1 Grievance Procedures Regarding Access to Public Buildings, Programs, Services and Employment.

(a) Statement of Purpose.

- (1) The City of Westby, in complying with the Americans with Disabilities Act (ADA), 42 USC Sec. 12101, has developed a plan by which access to all City programs, facilities, services and employment is guaranteed to all citizens. A transition plan has been adopted by the Common Council and is available from the City Clerk-Treasurer. An ADA Coordinator has been appointed and an ADA Compliance Committee established. Concerns and/or complaints can be addressed to the ADA Coordinator, care of the City of Westby Clerk-Treasurer.
- (2) The ADA Coordinator and ADA Compliance Committee shall be annually appointed by the Mayor, subject to confirmation by the Common Council, at the Council's organizational meeting. The ADA Compliance Committee shall consist of five (5) members, and shall, if possible, have representatives from the following fields:
 - a. Business and/or non-profit organization.
 - b. Education.
 - c. Disabled representative.
 - d. Elected official.
 - e. Health/medical.
- (3) In the alternative to the committee structure in Subsection (a)(2) above, the Common Council may designate a standing committee to serve as the ADA Compliance Committee.
- (4) City letterhead and other applicable printed notices should contain the words "An equal opportunity/affirmative action employer."
- (5) An ADA Committee meeting shall be treated as any other City committee meeting and notice shall be posted a minimum of twenty-four (24) hours prior to the meeting.

(c) Complaint Procedure.

- (1) Complaints shall be filed with the ADA Coordinator, in care of the City Clerk-Treasurer.
- (2) A complaint shall be filed in writing, contain the name and address of the person filing it, and briefly describe the alleged violation or complaint.
- (3) A complaint should be filed within thirty (30) days after the complainant becomes aware of the alleged problem.
- (4) An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by the ADA Coordinator.
- (5) A written determination as to the validity of the complaint and description of the resolution, if any, shall be issued by the ADA Coordinator and a copy forwarded to the complainant no later than twenty (20) days after its filing.

- (6) The City Clerk-Treasurer shall maintain the files and records of the City relating to the complaints filed.
- (c) **Appeals.**
 - (1) If unresolved, the complainant or ADA Coordinator may ask that the complaint be forwarded to the ADA Compliance Committee. The Committee may establish rules to review the complaint and will issue its written decision within thirty (30) days. Review will be conducted in public with a minimum twenty-four (24) hour notice. All proceedings will be transcribed and maintained. The Committee will also review requests or suggestions from disabled persons regarding access to and participation in public facilities, services, activities and functions in the community.
 - (2) If unresolved, the complainant or ADA Coordinator may ask that the complaint be heard by the Common Council and that a determination be made within thirty (30) days of the ADA Compliance Committee's hearing. The decision by the Board shall be final. An open, public meeting of the Common Council shall precede the vote.
- (d) **Other Remedies.** The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other state or federal remedies. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies. However, the 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 and to meet appropriate due process standards.