

CHAPTER 3

RESIDENTIAL & COMMERCIAL BUILDING AND MECHANICAL CODE

3.1 AUTHORITY AND PURPOSE.

(1) These regulations are adopted under the statutory authority granted pursuant to sec. 101.65, 101.651, 101.76, and 101.761, and by its adoption of village powers under sec. 60.10(2)(c), 60.22(3), 61.34(1), Wis. Stats.

(2) The purpose of this Code is to promote the health, safety, and general welfare of our community, to protect property values and provide for orderly, appropriate development and growth of the Town of Black Earth.

3.2 DEFINITIONS. As used in this Chapter, the following terms have the meaning prescribed herein:

(1) Building. Any structure erected or constructed of wood, metal, stone, plastic or other materials, which is intended to be used by human beings or animals for occupancy, livery, commerce, education, cultural activities or other purpose. The term does not include children's play structures, agricultural sheds or agricultural accessory buildings.

(2) Building Inspector. The individual(s) or firm appointed by the Town Board to exercise all of the powers and duties of a building inspector under Wisconsin law.

(3) Construction. Any part or portion of the activity of installing, locating, siting, erecting or raising a building.

(4) Contractor. Any person, firm or entity which undertakes any activity related to the construction of a building other than the mere provision of supplies, materials.

(5) Demolition. The activity of completely or partially destroying a previously erected or constructed building.

(6) Electrical. The trade which relates to the design, installation, maintenance and repair of the mechanical equipment, wiring, fixtures and connections which tie a structure to the power grid of an electric generating utility and distribute the electricity through a structure to end uses, including any work which must be performed by a master electrician licensed by the State of Wisconsin or a person under the supervision of such an electrician.

(7) Garage. A building which is primarily intended for storage of parked automobiles or equipment.

(8) HVAC. An acronym which stands for Heating, Ventilating and Air Conditioning; the trade which installs mechanical equipment, systems and accessory ducting and gratings for the purpose of warming, purifying, cooling and exchanging air in a building.

(9) Occupancy. The act of utilizing a building for habitation by human beings. Any use of a building for any activity which is customarily or routinely associated with utilization of a building as a residence or commercial building shall constitute occupancy.

(10) Owner. The individual, firm or entity which has record title to the real estate on which construction or demolition is taking place.

(11) Plumbing. The trade which relates to the design, installation and maintenance or repair of pipes, drains, sinks, basins, hot water heating systems, natural gas pipes, grease traps, floor drains, and all other work for which the individual performing the work must either be a master plumber licensed by the State of Wisconsin or work under the supervision of such a plumber.

(12) Stop work order. A directive issued with respect to a construction project by a building inspector which compels the owner and any contractor or builder of a building to cease any further work or activity on the construction project until the building inspector has authorized the resumption of the construction project.

(13) Mobile Home. The word "mobile home" as used herein means a vehicle designed to be towed or transported as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length of in excess of forty-five (45) feet. "Mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

3.3 SCOPE. This Code applies to all dwellings, commercial buildings/structures, swimming pools, garages, structures, buildings, and residential accessory buildings. Notwithstanding this section, this ordinance shall not apply to children's play structures or agricultural buildings.

3.4 PERMIT REQUIRED.

(1) No owner or contractor may commence construction of any building or mechanical system prior to obtaining a valid permit from the municipal building inspector.

(2) The construction which shall require a building permit includes, but is not limited to:

(a) New buildings.

(b) Additions that increase the physical dimensions of a building including decks.

- (c) Alterations to the building structure, cost shall include market labor value, or alterations to the building's heating, electrical or plumbing systems.
- (d) Alteration of plumbing, venting, electrical or gas supply systems.
- (e) Any electrical wiring for new construction or remodeling.
- (f) Any HVAC for new construction or remodeling.
- (g) Any plumbing for new construction or remodeling.

(3) The following construction activities shall not require a building permit:

- (a) Re-siding, re-roofing and finishing or interior surfaces, installation of cabinetry, and repairs which are deemed minor by the Building Inspector. Notwithstanding this section, however, a permit accompanied by structural load-bearing calculations shall be required for re-roofing a building if the proposed re-roofing would constitute a third or more layer of roofing.
- (b) Normal repairs of HVAC, plumbing and electrical equipment or systems.
- (c) Any size accessory structure not fixed to ground.

(4) For agricultural buildings, and administrative building permit is required. No building inspections shall be required. Electrical service permit and inspection shall be required.

3.5 ADOPTION OF CODES.

(1) The following Chapters of the Wisconsin Administrative Codes, as well as all subsequent revisions, are adopted by the Town and shall be enforced by the Building Inspector.

COMM 16-17	Electrical Code
COMM 20-25	Uniform Dwelling Code
COMM 26	Inspection Certification
COMM 50-64	Commercial Building and Heating, Ventilating and Air Conditioning Code
COMM 66	Multi-Family Code
COMM 69	Barrier Free Design
COMM 70	Historic Building Code
COMM 81-86	Uniform Plumbing Code
COMM 160-164	Existing Building Code

(2) Any local building codes or requirements other than those contained herein are repealed.

3.6 SCOPE OF UNIFORM DWELLING CODE EXPANDED. For the purposes of this Ordinance, the standards contained in the Wisconsin Uniform Dwelling Code shall be expanded to apply as the standards for construction of the following:

(1) Additions, alterations and major equipment replacements for one and two family dwellings built prior to June 1, 1980.

(2) Detached garages greater than 200 square feet in area serving one and two family dwellings. Grade-beam slabs are required for private, residential garages with a continuous floating slab of reinforced concrete and shall not be less than four (4) inches in thickness. Reinforcement shall be a minimum of six by six (6 x 6) inch, number ten wire or fiber 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); COMM 22 shall not apply.

(3) With respect to other detached accessory buildings, concrete slabs, frost-free footings and the like are not required, but if they are installed they shall follow (2) above and/or COMM 21.

3.7 BUILDING INSPECTOR.

(1) Creation and Appointment. There is hereby created the office of Building Inspector. The Building Inspector shall be appointed by the Town Board. The Building Inspector shall be certified for inspection purposes by the Department in the required categories specified under COMM 26.06, Wisconsin Adm. Code.

(2) Subordinates. The Building Inspector may employ, assign or appoint, as necessary, subordinate, mechanical inspectors. Any subordinate hired to inspect buildings shall be certified as defined in COMM 26 and COMM 17, Wisconsin Adm. Code, by the Department.

(3) Duties. The Building Inspector shall administer and enforce all provisions of this ordinance.

(4) Powers. The Building Inspector or an authorized agent of the Building Inspector may, at all reasonable hours, enter upon any public or private premises for inspection purposes. The Building Inspector 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 Inspector or his/her agent while in the performance of his/her duties. In the event that the Inspector is refused access to any such premises, then

the Inspector is authorized to apply for a special inspection warrant pursuant to sec. 66.122, Wis. Stats.

(5) Inspections. In order to permit inspection of a building project at all necessary phases without causing delay for the owner, the owner and/or contractor shall request all of the following inspections in conformity with the time lines required by State codes or at least 48 hours in advance by the applicant/contractor or property owner, as applicable:

- (a) Footing/Foundation.
- (b) Rough Carpentry, HVAC, Electric and Plumbing.
- (c) Drainage/Basement Floor.
- (d) Underfloor Plumbing/Electric Service.
- (e) Insulation.
- (f) Final Carpentry, HVAC, Electric & Plumbing.
- (g) Erosion Control.

(6) No construction shall be deemed approved by default or lack of inspection by the Building Inspector.

(7) The expense of uncovering or exposing any work which must be inspected, where such work was required by the failure of the owner to request any inspection, will be the responsibility of the contractor and/or property owner.

(8) Records. The Building Inspector shall perform all administrative tasks required by the Department under all codes covered in Sec 3.5 above. In addition, the Inspector shall keep a record of all applications for permits and shall number each permit in the order of its issuance.

3.8 SUBMISSION OF PLANS. The owner or contractor shall, with respect to any proposed construction or demolition, submit two sets of building plans to the Inspector for any work which expands the size of a building, any new building or as required by the Inspector. If a new building or building addition is proposed, then a plot plan showing such proposed work, existing buildings and property lines, and an erosion control plan shall be submitted. A signed set of heat loss calculations shall also 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 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.

3.9 ISSUANCE OF PERMIT.

(1) The Inspector shall issue the requested permit if the owner or contractor demonstrates that all state, County and local submission requirements are satisfied. No permit shall be issued unless the applicant has a Dane County zoning permit or proof that no permit is required. If a permit card is issued, it shall be posted at the job site in a visible location from the street. Permits are valid for two years. Permits may be extended by the building inspector for an additional period of up to two years.

(2) 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) Permits are issued conditionally on the condition that the owner and/or contractor(s) shall conform to the requirements of all applicable codes, zoning ordinances, setback requirements in constructing the building.

(4) If a new driveway is contemplated, the required permit must also be granted by the Town

3.10 COMPLETION DEPOSIT REQUIRED.

(1) A completion deposit is required for any project whose total cost, including labor, materials and supplies, will exceed \$1,500.00. A completion deposit will be required at the time the permits are applied for based upon the cost of the project, in an amount as prescribed in the attached Fee Schedule.

(2) The deposit shall be refunded after the project is completed and the Building Inspector has found that the building complies with all applicable codes.

(3) The deposit shall be forfeited if occupancy occurs before final inspection or extends after a temporary occupancy permit expires. It shall also be forfeited if the project is not finished within 2 years of the date the permit is issued.

3.11 RAZING AND DEMOLITION.

(1) Demolition Permit Required. No person, firm or entity may cause the demolition of any structure or part of a structure greater than 400 square feet in area without having first applied for and obtained a demolition permit from the Building Inspector. No person, firm or entity may undertake any steps to demolish the structure prior to receiving a permit. This section shall not apply to any agricultural building. Wisconsin Department of Natural Resources regulations shall be checked for requirements prior to any demolition.

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

- (a) The name and address of the owner of the building on date of application and, if different, on date of demolition;
- (b) The name, address and telephone number of the contractor(s) performing the demolition work;
- (c) The date upon which demolition is to commence;
- (d) The date by which demolition shall be complete;
- (e) A list of all hazardous waste and hazardous and toxic substances (as defined by Sec. NR 181.12 and NR 158.03(4), Wis. Admin. 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;
- (f) 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);
- (g) A description of the method of demolition to be used; and
- (h) 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.
- (i) 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.

(3) Demolition. Demolition shall be conducted in a manner that is safe and that does not adversely affect the environment.

(a) Clearing and Leveling The Site.

- i. 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 30 consecutive days after demolition is completed.

ii. 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 72 hours inspect each excavation, or part thereof, before filling any excavation.

iii. 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 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 municipality provided that a written copy of the opinion is delivered to the Clerk at least 48 hours before filling of the excavation commences.

(b) 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 72 hours written notice prior to any removal, transportation or disposal of hazardous waste, hazardous and toxic substances, and asbestos.

3.12 MOVING BUILDINGS.

(1) General. No person shall move any building or structure upon any of the public right-of-ways of the Town without first obtaining permit therefore from the Building Inspector and upon the payment of 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) Moving Damaged Buildings. No building shall be repaired, altered or moved within or into the municipality 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 (50) percent or more of its equalized value. No permit shall be granted to repair, alter or move such building within or into the municipality. Furthermore, if the equalized assessed value of the building is not within 20% of the buildings located within one thousand feet (1,000') of the land to which the building is proposed to be moved, no permit shall be granted unless the building is improved so that its equalized value is within 20% of the lowest equalized value of any such nearby building.

(3) Continuous Movement. The movement of buildings shall be a continuous operation during all the hours of the day, and day by day and at night until such movement is fully completed. All of 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 a fire hydrant or any other public facility. Lighted lanterns shall be kept in conspicuous places at each end of the building during the night.

(4) Street Repair. Every person receiving a permit to move a building shall, within one day after said building reaches its destination, report the fact to the Building Inspector who shall thereupon, in the company of the municipal highway commissioner, inspect the streets and highways over which said building has been moved and ascertain the 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 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 governing body, said body shall repair the damage done to such streets and hold the person obtaining such permit and the sureties on his/her bond responsible for payment of same.

(5) Conformance With Code. No permit shall be issued to move a building within or into the municipality and to establish it upon a location within the said municipality 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 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 municipality to some point outside of the boundaries thereof, the provisions, with respect to the furnishing of plans and specifications for proposed alterations to such building, may be disregarded.

(6) Bond.

(a) Before a permit is issued to move any building over any public way in this municipality, the party applying for said permit shall make a cash deposit to the municipality in a sum, to be fixed by the Town, which sum shall not be less than Five Thousand Dollars (\$5,000.00). Said cash deposit shall be held for indemnification of the Town 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 or expenses incurred by the Town in connection therewith, arising out of the removal of the building for which the permit is issued.

(b) The bond required by (a) 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 reasonable adopted or calculated to prevent the occurrences set forth herein. The Building Inspector may waive the time lines in this paragraph if the Building Inspector, after investigation, determines that the excavation exposed by the removal of such building from its foundation is not so close to a public thoroughfare as to constitute a hazard to persons, particularly, children under 12 years of age.

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

(8) Town Board.

(a) Before any permit to relocate a building may be issued, the Town Board shall examine the application for the permit and approve the application by a majority vote.

(b) The application shall include exterior elevations of the building at its proposed new location; accurate photographs of all sides and views of the same; in case it is proposed to alter the exterior of said building, plans and specifications of such proposed alterations, and a site plan showing the location of the building on the final resting site.

(c) The Town Board should not grant a permit unless the Board has taken a view of the building proposed to be moved and of the site at which it is to be located.

(d) The Town Board may not issue a permit for relocation of a building unless it finds that the exterior appearance and design of the building to be moved or moved and altered will be consistent with the exterior appearance and design of the buildings already constructed or in the course of construction in the immediate neighborhood, or with the character of the applicable district established by the zoning ordinances of the municipality. No permit shall be granted if the relocation will cause a substantial depreciation of the property values of the neighborhood to which the building is proposed to be relocated.

(9) 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 of the proposed alterations. Before a permit shall be issued for a building to be moved and altered, the applicant shall deposit a cash bond of not less than \$5,000 with the Town to

secure the timely completion of all proposed exterior alterations to said building, as set forth in the 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 Town.

(10) No occupancy permit shall be issued for said building until the exterior alterations proposed to be made have been completed.

(11) Whenever an application for relocation of a building is made to the Building Inspector, he/she shall request a meeting of the Town Board to consider the application. The Building Inspector shall inform the Town Board whether or not the application complies, in all respects, with all other ordinances of the municipality. The Town Board may, if it desires, hold a public hearing on the permit.

3.13 OCCUPANCY PERMIT. If the Building Inspector, after completing all required inspections, finds that a building has been constructed in accordance with the applicable codes, then the Inspector shall issue an occupancy permit. If the building fails to comply with the codes in minor respects which do not threaten the safety, health or welfare of the building's occupants, the Inspector may issue a temporary occupancy permit for a specified term. No person may have occupancy of a building until an occupancy permit is issued.

3.14 EXTERIOR FINISH REQUIRED. All buildings shall have a weather-resistant, uniform and neighborhood-compatible exterior finish. Tarpaper or similar material is not acceptable.

3.15 MAINTENANCE OF YARDS. During construction or demolition, yards shall be kept free of weeds, construction debris, trash, open storage or non-licensed or disabled vehicles.

3.16 FEES.

(1) At the time of building permit application issuance, the applicant shall pay fees as established periodically by the Town Board and entered in the Fee Schedule. If work commences prior to permit issuances, the permit fee shall double.

(2) The Building Inspector shall also collect those fees that are required by the State for the issuance of a permit, at the rate established periodically by the State.

3.17 VIOLATIONS AND PENALTIES.

(1) Prohibition. No person, entity, or firm may construct, remodel, demolish or repair any building in a manner which violates any provision or provisions of this Ordinance.

(2) Violations discovered by the Building Inspector shall be corrected within 30 days, or more if allowed by the Inspector, after written notice is given.

(3) Compliance with the requirements of this Ordinance is necessary to promote the safety, health and well-being of the community and the owners, occupants and frequenters of buildings. Therefore, violations of this ordinance shall constitute a public nuisance which may be enjoined in a civil action.

3.18 STOP WORK ORDER. The Building Inspector may issue a stop work order for a project to prevent further non-complying work. No person, firm or entity may continue a construction project after a stop work order has been issued. The person, firm or entity which receives such a stop work order may contest the validity of the same by requesting a hearing before the Town Board. The Town Board shall hear the appeal within seven days. The Town Board shall affirm the stop work order unless the owner or contractor shows that the Building Inspector erred in determining that the construction project violated a provision or provisions of the state building codes.

3.19 MOBILE HOMES.

(1) OCCUPANCY. No person, firm partnership or corporation shall use or occupy a mobile home as a permanent residence or as a place to live, eat or sleep therein permanently in the Town of Black Earth. "Permanent" or "permanently" is hereby defined to be for an aggregate period exceeding one year. It is the stated intent of the Town that mobile homes are only to be used as temporary housing in the event of an emergency.

(2) PERMIT REQUIRED. Any transient mobile home owner or occupant or the owner or occupant of a mobile home on a temporary basis shall, not less than seventy-two (72) hours prior to parking the mobile home make application to the Building Inspector for a permit. The application shall be in writing, and shall contain such information as the Building Inspector, in his or her discretion determines as to the location, sanitary facilities, and the intended length of stay of the mobile home in the Town. The Building Inspector may issue a permit for parking the mobile home in the Town for a period not to exceed one year. Unless a variance is granted as described below, the permit shall not be renewable.

(3) EXISTING PERMITS. Any person to whom a permit for temporary residency or occupation of a mobile home has been issued shall be permitted to occupy and use said mobile home as a residence until the permit has expired. Unless a variance is granted as described below, the permit shall not be renewed.

3.20 VARIANCE. The Town Board shall hear requests for variances from the building code to the extent the Town Board has authority to hear or grant variances. The Town Board shall approve, conditionally approve, or deny a requested variance. The Town Board may grant a variance from a Code requirement only if the variance is permitted by state law and if the performance of the proposed variance is equal to or greater than the code requires.

3.21 DISCLAIMER AND NON-LIABILITY FOR DAMAGES. This ordinance shall not be construed as an assumption of liability by the municipality or the building inspector for damages because of injuries sustained or property destroyed by any defect in any dwelling or equipment.